

NORTH CAROLINA REGISTER

VOLUME 38 • ISSUE 13 • Pages 831 – 906

January 2, 2024

I. IN ADDITION	
Board of Pharmacy	831 – 832
II. PROPOSED RULES	
Labor, Department of	
Department	833 – 843
Environmental Quality, Department of	
Environmental Management Commission	843 – 845
III. APPROVED RULES	846 – 899
Agriculture and Consumer Services, Department of	
Agriculture, Board of	
Health and Human Services, Department of	
Medical Care Commission	
Justice, Department of	
Criminal Justice Education and Training Standards Commission	
Sheriffs' Education and Training Standards Commission	
Revenue, Department of	
Department	
Occupational Licensing Boards and Commissions	
General Contractors, Licensing Board for	
Cosmetic Art Examiners, Board of	
Dental Examiners, Board of	
Nursing, Board of	
IV. RULES REVIEW COMMISSION	900 – 906

PUBLISHED BY

*The Office of Administrative Hearings
Rules Division
1711 New Hope Church Road
Raleigh, NC 27609
Telephone 984-236-1850
Fax 984-236-1947*

*Donald R. van der Vaart, Director
Ashley B. Snyder, Codifier of Rules
Dana McGhee, Publications Coordinator
Cathy Matthews-Thayer, Editorial Assistant*

Contact List for Rulemaking Questions or Concerns

For questions or concerns regarding the Administrative Procedure Act or any of its components, consult with the agencies below. The bolded headings are typical issues which the given agency can address but are not inclusive.

Rule Notices, Filings, Register, Deadlines, Copies of Proposed Rules, etc.

Office of Administrative Hearings

Rules Division

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Ashley B. Snyder, Codifier of Rules

ashley.snyder@oah.nc.gov

984-236-1941

Dana McGhee, Publications Coordinator

dana.mcgee@oah.nc.gov

984-236-1937

Cathy Matthews-Thayer, Editorial Assistant

cathy.thayer@oah.nc.gov

984-236-1901

Rule Review and Legal Issues

Rules Review Commission

1711 New Hope Church Road

984-236-1850

Raleigh, North Carolina 27609

984-236-1947 FAX

contact: Brian Liebman, Commission Counsel

brian.liebman@oah.nc.gov

984-236-1948

William W. Peaslee, Commission Counsel

bill.peaslee@oah.nc.gov

984-236-1939

Seth M. Ascher, Commission Counsel

seth.ascher@oah.nc.gov

984-236-1934

Alexander Burgos, Paralegal

alexander.burgos@oah.nc.gov

984-236-1940

Fiscal Notes & Economic Analysis

Office of State Budget and Management

116 West Jones Street

Raleigh, North Carolina 27603-8005

Contact: Julie Ventaloro, Economic Analyst

osbmruleanalysis@osbm.nc.gov

984-236-0694

NC Association of County Commissioners

919-715-2893

215 North Dawson Street

Raleigh, North Carolina 27603

contact: Amy Bason

amy.bason@ncacc.org

NC League of Municipalities

919-715-2925

424 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

contact: Monica Jackson

mjackson@nclm.org

Legislative Process Concerning Rulemaking

545 Legislative Office Building

300 North Salisbury Street

919-733-2578

Raleigh, North Carolina 27611

919-715-5460 FAX

Jason Moran-Bates, Staff Attorney

Chris Saunders, Staff Attorney

Aaron McGlothlin, Staff Attorney

NORTH CAROLINA REGISTER
Publication Schedule for January 2024 – December 2024

FILING DEADLINES			NOTICE OF TEXT		PERMANENT RULE			TEMPORARY RULES
Volume & issue number	Issue date	Last day for filing	Earliest date for public hearing	End of required comment Period	Deadline to submit to RRC for review at next meeting	RRC Meeting Date	Earliest Eff. Date of Permanent Rule	270 th day from publication in the Register
38:13	01/02/24	12/06/23	01/17/24	03/04/24	03/20/24	04/30/2024	05/01/24	09/28/24
38:14	01/16/24	12/19/23	01/31/24	03/18/24	03/20/24	04/30/2024	05/01/24	10/12/24
38:15	02/01/24	01/10/24	02/16/24	04/01/24	04/20/24	05/29/2024	06/01/24	10/28/24
38:16	02/15/24	01/25/24	03/01/24	04/15/24	04/20/24	05/29/2024	06/01/24	11/11/24
38:17	03/01/24	02/09/24	03/16/24	04/30/24	05/20/24	06/26/2024	07/01/24	11/26/24
38:18	03/15/24	02/23/24	03/30/24	05/14/24	05/20/24	06/26/2024	07/01/24	12/10/24
38:19	04/01/24	03/08/24	04/16/24	05/31/24	06/20/24	07/31/2024	08/01/24	12/27/24
38:20	04/15/24	03/22/24	04/30/24	06/14/24	06/20/24	07/31/2024	08/01/24	01/10/25
38:21	05/01/24	04/10/24	05/16/24	07/01/24	07/20/24	08/28/2024	09/01/24	01/26/25
38:22	05/15/24	04/24/24	05/30/24	07/15/24	07/20/24	08/28/2024	09/01/24	02/09/25
38:23	06/03/24	05/10/24	06/18/24	08/02/24	08/20/24	09/25/2024	10/01/24	02/28/25
38:24	06/17/24	05/24/24	07/02/24	08/16/24	08/20/24	09/25/2024	10/01/24	03/14/25
39:01	07/01/24	06/10/24	07/16/24	08/30/24	09/20/24	10/30/2024	11/01/24	03/28/25
39:02	07/15/24	06/21/24	07/30/24	09/13/24	09/20/24	10/30/2024	11/01/24	04/11/25
39:03	08/01/24	07/11/24	08/16/24	09/30/24	10/20/24	11/26/2024	12/01/24	04/28/25
39:04	08/15/24	07/25/24	08/30/24	10/14/24	10/20/24	11/26/2024	12/01/24	05/12/25
39:05	09/03/24	08/12/24	09/18/24	11/04/24	11/20/24	12/19/2024	01/01/25	05/31/25
39:06	09/16/24	08/23/24	10/01/24	11/15/24	11/20/24	12/19/2024	01/01/25	06/13/25
39:07	10/01/24	09/10/24	10/16/24	12/02/24	12/20/24	*01/29/2025	02/01/25	06/28/25
39:08	10/15/24	09/24/24	10/30/24	12/16/24	12/20/24	*01/29/2025	02/01/25	07/12/25
39:09	11/01/24	10/11/24	11/16/24	12/31/24	01/20/25	*02/26/2025	03/01/25	07/29/25
39:10	11/15/24	10/24/24	11/30/24	01/14/25	01/20/25	*02/26/2025	03/01/25	08/12/25
39:11	12/02/24	11/06/24	12/17/24	01/31/25	02/20/25	*03/26/2025	04/01/25	08/29/25
39:12	12/16/24	11/21/24	12/31/24	02/14/25	02/20/25	*03/26/2025	04/01/25	09/12/25

*Dates not approved by the RRC

This document is prepared by the Office of Administrative Hearings as a public service and is not to be deemed binding or controlling.

EXPLANATION OF THE PUBLICATION SCHEDULE

This Publication Schedule is prepared by the Office of Administrative Hearings as a public service and the computation of time periods are not to be deemed binding or controlling. Time is computed according to 26 NCAC 2C .0302 and the Rules of Civil Procedure, Rule 6.

GENERAL

The North Carolina Register shall be published twice a month and contains the following information submitted for publication by a state agency:

- (1) temporary rules;
- (2) text of proposed rules;
- (3) text of permanent rules approved by the Rules Review Commission;
- (4) emergency rules
- (5) Executive Orders of the Governor;
- (6) final decision letters from the U.S. Attorney General concerning changes in laws affecting voting in a jurisdiction subject of Section 5 of the Voting Rights Act of 1965, as required by G.S. 120-30.9H; and
- (7) other information the Codifier of Rules determines to be helpful to the public.

COMPUTING TIME: In computing time in the schedule, the day of publication of the North Carolina Register is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or State holiday, in which event the period runs until the preceding day which is not a Saturday, Sunday, or State holiday.

FILING DEADLINES

ISSUE DATE: The Register is published on the first and fifteen of each month if the first or fifteenth of the month is not a Saturday, Sunday, or State holiday for employees mandated by the State Personnel Commission. If the first or fifteenth of any month is a Saturday, Sunday, or a holiday for State employees, the North Carolina Register issue for that day will be published on the day of that month after the first or fifteenth that is not a Saturday, Sunday, or holiday for State employees.

LAST DAY FOR FILING: The last day for filing for any issue is 15 days before the issue date excluding Saturdays, Sundays, and holidays for State employees.

NOTICE OF TEXT

EARLIEST DATE FOR PUBLIC HEARING: The hearing date shall be at least 15 days but not later than 60 days after the date a notice of the hearing is published.

END OF REQUIRED COMMENT PERIOD
An agency shall accept comments on the text of a proposed rule for at least 60 days after the text is published.

DEADLINE TO SUBMIT TO THE RULES REVIEW COMMISSION: The Commission shall review a rule submitted to it on or before the twentieth of a month by the last day of the next month.

Jack W. Campbell, IV
Executive Director

Barbara Ellen Vick
Associate Executive Director

Mailing Address:
6015 Farrington Rd., Suite 201
Chapel Hill, NC 27517
919-246-1050 FAX: 919-246-1056
www.ncbop.org

Clinton R. Pinyan
Brooks, Pierce, McLendon,
Humphrey & Leonard, LLP
Legal Counsel

NORTH CAROLINA
BOARD OF PHARMACY



President
Wallace Nelson

Vice President
Dr. J. Andrew Bowman

Members
Mischelle Corbin
Dr. Ashley Duggins
Dr. Chris Sain
Dr. Keith A. Vance

December 1, 2023

VIA ELECTRONIC MAIL (oah.rules@oah.nc.gov; ashley.snyder@oah.nc.gov)

Ashley Snyder
Codifier of Rules
6714 Mail Service Center
Raleigh, NC 27699-6714

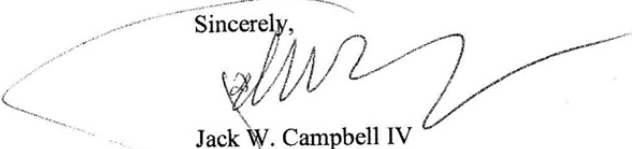
Re: Publication of Revised Narrow Therapeutic Index Drugs Designated by
the North Carolina Secretary of Health and Human Services

Dear Ms. Snyder:

As required by G.S. § 90-85.27(4a), enclosed please find a list of Narrow Therapeutic Index Drugs designated by the North Carolina Secretary of Health and Human Services to be published the North Carolina Register in January. There are no changes from the list published last year.

Please call me if you have any questions.

Sincerely,


Jack W. Campbell IV
Executive Director

Enclosure

Located at 1-40 & 54
6015 Farrington Road, Suite 201
Chapel Hill, NC 27517-8154

**NARROW THERAPEUTIC INDEX DRUGS DESIGNATED BY THE NORTH
CAROLINA SECRETARY OF HUMAN RESOURCES**

Pursuant to N.C.G.S. §90-85.27(4a), this is a revised publication from the North Carolina Board of Pharmacy of narrow therapeutic index drugs designated by the North Carolina Secretary of Human Resources upon the advice of the State Health Director, North Carolina Board of Pharmacy, and North Carolina Medical Board.

Carbamazepine: all oral dosage forms

Cyclosporine: all oral dosage forms

Digoxin: all oral dosage forms

Ethosuximide

Levothyroxine sodium tablets

Lithium (including all salts): all oral dosage forms

Phenytoin (including all salts): all oral dosage forms

Procainamide

Theophylline (including all salts): all oral dosage forms

Warfarin sodium tablets

Tacrolimus: all oral dosage forms

Note from the Codifier: The notices published in this Section of the NC Register include the text of proposed rules. The agency must accept comments on the proposed rule(s) for at least 60 days from the publication date, or until the public hearing, or a later date if specified in the notice by the agency. If the agency adopts a rule that differs substantially from a prior published notice, the agency must publish the text of the proposed different rule and accept comment on the proposed different rule for 60 days.

Statutory reference: G.S. 150B-21.2.

TITLE 13 – DEPARTMENT OF LABOR

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to adopt the rules cited as 13 NCAC 071 .0101, .0102, .0201-.0204, .0301, and .0401-.0404.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.labor.nc.gov/rules-and-regulations>

Proposed Effective Date: December 1, 2024

Public Hearing:

Date: January 23, 2024

Time: 1:00 p.m.

Location: <https://call.lifesizecloud.com/20086796> or call +1 (312) 584-2401, 20086796#

Reason for Proposed Action: The North Carolina Department of Labor received a rulemaking petition. The Commissioner granted the petition. This is the publication of the Notice of Text pursuant to the petition. No fiscal note is required at this time. Placement of the attached proposed rules would be in a new subchapter and sections as follows: SUBCHAPTER 071 - AIRBORNE INFECTIOUS DISEASES; SECTION .0100 - GENERAL PROVISIONS; SECTION .0200 - EXPOSURE CONTROL PLAN; SECTION.0300 - EXPOSURE CONTROLS; SECTION .0400 - EXPOSURE CONTROL PLAN IMPLEMENTATION. The North Carolina Department of Labor also seeks to reserve an additional new subchapter: SUBCHAPTER 07H.

Comments may be submitted to: Jill F. Cramer, Rulemaking Coordinator, 1101 MSC, Raleigh, NC 27699-1101; email jill.cramer@labor.nc.gov

Comment period ends: March 4, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review:

If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions

concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ State funds affected
- ☐ Local funds affected
- ☐ Substantial economic impact (\geq \$1,000,000)
- ☐ Approved by OSBM
- ☒ No fiscal note required

CHAPTER 07 - OFFICE OF OCCUPATIONAL SAFETY AND HEALTH

SUBCHAPTER 07I – AIRBORNE INFECTIOUS DISEASES

SECTION .0100 – PURPOSE

13 NCAC 07I .0101 SCOPE AND APPLICATION

(a) The Rules in the Subchapter establish requirements for employers, employees, and places of employment to assess the risk of, prepare for, control, prevent, and mitigate the spread of an airborne infectious disease to and among employees and employers.

(b) The Rules in this Subchapter shall supplement and clarify the rights existing under the Occupational Safety and Health Act of North Carolina and any existing Rules, regulations, or standards applicable to hazards related to airborne infectious diseases, including, but not limited to, those dealing with personal protective equipment ("PPE"), respiratory protective equipment, face masks, and sanitation.

(c) These Rules shall not conflict with requirements and guidelines applicable to businesses set out in any executive order issued by the North Carolina governor or order issued by a government agency related to a public health emergency and shall take into account all applicable federal standards to the extent practicable.

(d) These Rules in this Subchapter shall apply to:

- (1) Every employer, employee, and place of employment in North Carolina within the jurisdiction of the OSH Division pursuant to the Occupational Safety and Health Act of North Carolina; and
- (2) Any airborne infectious disease designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services ("DHHS"), World Health Organization, or

Centers for Disease Control ("CDC") as presenting a public health emergency.

(e) The Rules in this Subchapter do not apply to any seasonal or endemic infectious disease that has not been designated as a public health emergency as specified in Subparagraph (d)(2) of this Rule.

(f) The Rules in this Subchapter shall not be interpreted as relieving any employer from the requirements of any other state or federal guidance or requirements related to preventing the spread of an airborne infectious disease to employees and third parties such as customers, contractors, and members of the public within the workplace.

Authority G.S. 95-133.

13 NCAC 07I .0102 DEFINITIONS

In addition to the definitions set forth in the Occupational Safety and Health Act of North Carolina and 29 CFR 1910, 29 CFR 1926, and 29 CFR 1928, the following definitions apply throughout the Rules in this Section:

- (1) "Airborne infectious disease" means any infectious viral, bacterial, or fungal disease that is transmissible through the air in the form of aerosol particles or droplets and which is designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or the CDC as presenting a public health emergency.
- (2) "Authorized employee representative" means any person designated, verbally or in writing, by an employee to serve as their authorized representative.
- (3) "CDC" means the Centers for Disease Control and Prevention.
- (4) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.
- (5) "Undue hardship" means a significant difficulty or monetary expense to include an impact on the overall financial resources of the particular employer to include the effect on expenses and resources of the employer, and any other impact on the operation of the business. Aspects that shall be taken into consideration in determining the significant difficulty or monetary expense shall include the overall effect on the financial resources of the covered entity, the number of persons employed by the covered entity, and the number, type, and location of the covered entity's facilities.

Authority G.S. 95-133.

SECTION .0200 – EXPOSURE CONTROL PLAN

13 NCAC 07I .0201 EXPOSURE CONTROL PLAN

(a) Each employer shall create, implement, and maintain a written exposure control plan that is specific to the workplace and operations.

(b) The exposure control plan shall be designed to eliminate or minimize employee exposure to airborne infectious diseases in the event of an outbreak of an airborne infectious disease.

(c) Each employer shall make the exposure control plan available in English and in the languages identified as a primary language of a majority of employees.

(d) The written exposure control plan shall be made available to all employees.

(e) The written exposure control plan shall be provided, upon request, to employee representatives, collective bargaining representatives, and the OSH Division.

(f) An Exposure Control Plan shall establish the following:

- (1) A system for communicating with all employees that is readily understandable by all employees and can be accessed by all employees.
- (2) A time frame within which the employer shall notify employees of the existence of an infectious disease in the workplace.
- (3) A method of identification and evaluation of airborne infectious disease hazards.
- (4) A method for employees to report symptoms of an airborne infectious disease to the employer.
- (5) A process for investigating and responding to airborne infectious disease cases in the workplace.
- (6) A process for mitigating or correcting unsafe or unhealthy working conditions, work practices, policies and procedures in a timely manner based on how the infectious disease is spread.
- (7) A process for review and updating of the exposure prevention plan on at least an annual basis to reflect new or modified tasks and procedures which affect occupational exposure and that reflect new or modified employee assignments.
- (8) A procedure to respond effectively and immediately to individuals at the workplace who have contracted an airborne infectious disease to prevent or reduce the risk of transmission of the airborne infectious disease in the workplace.

(g) The Exposure Control Plan's method for employees to report symptoms of an infectious disease to the employer shall include the following:

- (1) What symptoms are being experienced.
- (2) What other employees the potentially infected employee may have been in contact with.

- (3) Whether a non-exposed employee needs an accommodation in relation to any pre-existing medical or physical condition that puts them at increased risk should they contract the airborne infectious disease.
- (4) How an employee may access testing for an airborne infectious disease.

Authority G.S. 95-133.

13 NCAC 07I.0202 EDUCATION OF EMPLOYEES

The employer shall communicate information about airborne infectious diseases and the employer's airborne infectious disease policies and procedures to employees upon hiring and when an order has been issued regarding the designation of an airborne infectious disease as a public health emergency.

Authority G.S. 95-133.

13 NCAC 07I.0203 ACTIVATION OF THE EXPOSURE CONTROL PLAN

(a) Implementation of the exposure control plan during an outbreak of an airborne infectious disease shall occur when an airborne infectious disease is officially designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or the CDC as a public health emergency.

(b) Upon issuance of an order, each employer shall:

- (1) Immediately review their worksite's exposure control plan and update the plan, if necessary, to ensure that the plan incorporates current information, guidance, and mandatory requirements issued by federal, state, or local governments related to the airborne infectious disease.
- (2) Activate the worksite exposure control plan, no later than 15 days from the date of the designation of an airborne infectious disease by a governmental entity.
- (3) Provide each employee with a copy of the exposure control plan in English or in the languages identified as the primary languages of a majority of employees.
- (4) Post a copy of the exposure control plan in English and in the languages identified as the primary languages of employees in a visible and prominent location at the worksite.
- (5) Provide electronic access of the exposure control plan to those employees who do not work in the same physical location on a daily basis or who work shifts.
- (6) Retain all versions of the exposure control plan implemented to comply with this section while the remains in effect.

(c) The employer shall communicate information about the airborne infectious disease policies and procedure to other employers, persons, and entities that are operating in the same physical space or operating in contact with the employer's

workplace when any employee has been confirmed positive for an airborne infectious disease.

(d) The employer shall:

- (1) Allow for employee and authorized employee representative participation in the identification and evaluation of airborne infectious disease hazards.
- (2) Develop and implement a process for screening employees. If the employer conducts screening indoors at the workplace, the employer shall require:
 - (A) Face coverings are used during screening by both screeners and employees being screened.
 - (B) Non-contact thermometers are used if employee temperatures are measured.
- (3) Develop and implement a process for responding to employees with symptoms of the airborne infectious disease, to include asking employees to evaluate their own symptoms before reporting to work.
- (4) Conduct a workplace-specific identification of all interactions, areas, activities, processes, equipment, and materials that could potentially expose employees to airborne infectious disease hazards. Employers shall treat all persons, regardless of symptoms or negative test results, as potentially infectious.

(e) The workplace-specific identification shall include:

- (1) Identification of places and times when people may congregate or come in contact with one another, regardless of whether employees are performing an assigned work task or are taking a break.
- (2) Evaluation of employees' potential workplace exposure to all persons at the workplace or who may enter the workplace, including coworkers, employees of other entities, members of the public, customers or clients, and independent contractors. Consideration shall be given to how employees and other people enter, exit, and travel through the workplace, in addition to addressing stationary work.
- (3) Evaluation of indoor locations and implementation of increasing air flow in the workplace to include:
 - (A) Maximizing ventilation with outdoor air;
 - (B) Available levels of filtration efficiency compatible with the existing ventilation system; and
 - (C) Whether the use of portable or mounted High Efficiency Particulate Air (HEPA) filtration units, or other air cleaning systems, would reduce the risk of airborne infectious disease transmission.

- (4) Review of applicable executive orders and published guidance from the State of North Carolina, local health departments, or the CDC related to airborne infectious disease hazards and prevention.
- (5) Evaluation of existing airborne infectious disease prevention controls at the workplace.
- (6) Evaluation of the need for additional airborne infectious disease prevention controls.
- (f) The employer shall conduct periodic inspections as needed to identify hazardous conditions, work practices, and work procedures related to the airborne infectious disease and to ensure compliance with employers' airborne infectious disease policies and procedures.
- (g) The employer shall maintain contact with employees who have tested positive for an airborne infectious disease in the workplace and allow them to return to the workplace when they are no longer contagious.
- (h) The employer shall implement a procedure to investigate airborne infectious disease cases in the workplace. This includes procedures for seeking information from employees regarding cases and close contacts, test results, and onset of symptoms, and identifying and recording cases.
- (i) The employer shall perform the following when an employee has contracted the airborne infectious disease at the place of employment:
 - (1) Determine the day and time the infected employee was last physically present at the workplace and, to the extent possible, the date of the positive test and/or diagnosis, and the date the employee first had one or more symptoms, if any were experienced.
 - (2) Determine with whom the infected employee may have had close contact with other employees. This requires an evaluation of the activities of the case and all locations at the workplace which may have been visited by the infected employee during the high-risk exposure period as defined by the CDC.
- (j) The employer shall give written notice of exposure to an airborne infectious disease at the worksite to employees within one business day of the date the employer has confirmed knowledge of an employee who was physically present at the place of employment and was confirmed positive for an airborne infectious disease.
 - (1) The notice shall be in a form and in the languages readily understandable by employees.
 - (2) The notice shall not include any of the following information:
 - (A) Identification of the confirmed employee.
 - (B) Any personal identifying information of the confirmed employee.
 - (3) The notice shall be provided in the manner the employer normally uses to communicate employment-related information. The method of providing written notice may include, but is not limited to, personal service, email, or text

messages if the notice can reasonably be anticipated to be received by the employee within one business day of sending.

- (4) The notice shall include either the cleaning and disinfection plan for the location where the employees work or immediate access to the plan.
- (5) The notice must be sent to the following:
 - (A) All employees who were on the premises at the same worksite as the case during the high-risk exposure period. If the employer should reasonably know that an employee has not received the notice or has limited literacy in the language used in the notice, the employer shall provide verbal notice, as soon as practicable, in a language understandable by the employee.
 - (B) Independent contractors and other employers on the premises at the same worksite as the case during the high-risk exposure period.
- (6) Notice must include information to potential exposed employees that they must either test for the airborne infectious disease or stay out of the workplace until the return-to-work criteria in this Subchapter are met.

Authority G.S. 95-133.

13 NCAC 071 .0204 CORRECTION OF HAZARDS
Employers shall implement policies and procedures for correcting workplace conditions or work practices that result in employee exposure from other employees to an airborne infectious disease. The policies and procedures shall be implemented in a timely manner based on the severity of the airborne infection disease.

Authority G.S. 95-133.

SECTION .0300 - EXPOSURE CONTROLS

13 NCAC 071 .0301 EXPOSURE CONTROLS
 (a) The employer shall select and obtain appropriate exposure controls based on the types of exposure and levels of exposure risk that employees have during all work-related activities performed at the worksite.
 (b) The following exposure controls shall be included in the employer's exposure prevention plan to be used at all worksites where occupational exposure to an airborne infectious disease may exist:

- (1) Face Coverings.
 - (A) The employer shall select and provide at no cost to employees, face coverings deemed appropriate and in accordance with applicable guidance from DHHS or the CDC.

- (B) The employer shall require that employees wear appropriate face coverings when physical distancing cannot be maintained. Appropriate face coverings shall be worn in accordance with applicable guidance from the DHHS or the CDC.
 - (2) Physical Distancing.
 - (A) Physical distancing shall be used to keep employees apart from other employees.
 - (B) Specific physical distancing shall be based on recommendations of the DHHS or the CDC during an airborne infectious disease outbreak, unless such physical distancing would constitute an undue hardship on the employer.
 - (3) Hand-Washing Hygiene Facilities.
 - (A) The employer shall, to the extent practicable and feasible, provide handwashing facilities with an adequate supply of tepid or warm potable water, soap, and single-use towels or air-drying machines.
 - (B) When providing handwashing facilities is not practicable and feasible, the employer shall provide hand sanitizing facilities and supplies.
 - (C) Hand sanitizers provided by the employer shall be effective against infectious diseases that are spread by contact with an airborne infectious disease.
 - (D) Hand sanitizers shall contain at least 60% alcohol or other composition determined to be appropriate by the DHHS or the CDC for the airborne infectious disease.
 - (4) Cleaning and disinfection of work premises.
 - (A) The employer shall implement an appropriate plan for cleaning and disinfection of the work premises that includes appropriate methods of decontamination based upon the location, facility type, type of surfaces to be cleaned, type of material present, tasks or procedures being performed in the area, and as otherwise directed by the DHHS or the CDC for the airborne infectious disease outbreak.
 - (B) Surfaces known or confirmed to be contaminated with potentially infectious matter shall be cleaned and disinfected immediately or as soon as feasible, unless the area and surfaces can be isolated for a period of time prior to cleaning.
 - (C) Surfaces contaminated with dust or other loose materials shall be wiped clean prior to disinfection, and the cleaning methods used should minimize dispersal of the dust or loose materials into the air.
 - (D) Frequently touched surfaces, such as handrails, doorknobs, and elevator buttons, shall be disinfected throughout the workday as recommended by the DHHS or the CDC.
 - (E) Shared tools, equipment, and workspaces shall be cleaned and disinfected prior to sharing or as recommended by the DHHS or the CDC.
 - (F) Common areas, such as bathrooms, dining areas, break rooms, locker rooms, vehicles, and sleeping quarters, shall be cleaned and disinfected at least daily or as recommended by the DHHS or the CDC.
- (c) Ventilation. This section does not require installation of new HVAC systems to replace or augment functioning systems. Employers who own or control buildings or structures with an existing heating, ventilation, and air conditioning (HVAC) systems must review their HVAC systems and implement a plan that:
- (1) The HVAC systems are used in accordance with the HVAC manufacturer's instructions and the design specifications of the HVAC systems.
 - (2) The amount of outside air circulated through the HVAC systems and the number of air changes per hour are maximized to the extent appropriate.
 - (3) All air filters are rated Minimum Efficiency Reporting Value (MERV) 13 or higher, if compatible with the HVAC systems. If MERV-13 or higher filters are not compatible with the HVAC systems, employers must use filters with the highest compatible filtering efficiency for the HVAC systems.
 - (4) All air filters are maintained and replaced as necessary to ensure the proper function and performance of the HVAC systems; and
 - (5) All intake ports that provide outside air to the HVAC systems are cleaned, maintained, and cleared of any debris that may affect the function and performance of the HVAC systems with the frequency recommended by the manufacturer.
- (d) Personal Protective Equipment.
- (1) Employers shall evaluate the need for employee use of personal protective equipment (PPE) to prevent exposure to hazards related to the airborne infectious

disease. Personal protective equipment may include gloves, goggles, and face shields. The employer shall provide such equipment as necessary.

- (2) Upon request, employers shall provide respirators to all employees for voluntary use in compliance with OSH Division's respiratory standard. PPE and respirators that are identified as necessary for the protection of the employee, shall fit the employee, and the PPE shall be provided, used, and maintained in a sanitary and reliable condition at the expense of the employer.
- (3) The employer shall:

- (A) Provide and require employees to use the PPE and any other protective equipment deemed necessary or recommended, as applicable, by the DHHS or the CDC.
- (B) Provide appropriate training and information to each employee required to use PPE.
- (C) Where employee-owned PPE is used at the worksite, the employer shall be responsible for ensuring that the employee-owned PPE is adequate and functions properly.
- (D) All PPE, including employee-owned PPE used at the worksite, shall be stored, used, and maintained in a sanitary and reliable condition in order to be used at the worksite.
- (E) Equipment must be maintained and disposed of according to manufacturer specifications and shall not be reused after the time when it is supposed to be disposed of.

(e) Vaccination. The employer must support vaccination against airborne infectious diseases for each employee by providing reasonable time and paid leave, such as paid sick leave or other administrative leave, if the employer has a policy and practice of providing such leave, to each employee for vaccination and any side effects experienced following vaccination.

Authority G.S. 95-133.

SECTION .0400 – EXPOSURE CONTROL PLAN IMPLEMENTATION

13 NCAC 07I .0401 TRAINING

(a) During the time of a designation of an airborne infectious disease as a public health emergency by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or the CDC, employers shall provide training to each employee in a language and at a literacy level the employee understands.

(b) The training shall include:

- (1) How the airborne infectious disease is transmitted (including presymptomatic and asymptomatic transmission), the importance of hand hygiene to reduce the risk of spreading infections, ways to reduce the risk of spreading the airborne infectious disease through the proper covering of the nose and mouth, the signs and symptoms of the disease, risk factors for severe illness, and when to seek medical attention.
- (2) Employer-specific policies and procedures on patient screening and management.
- (3) Tasks and situations in the workplace that could result in infection.
- (4) Workplace-specific policies and procedures to prevent the spread of the airborne infectious disease that are applicable to the employee's duties to include:
- (A) Policies on Standard and Transmission-Based Precautions;
- (B) Physical distancing;
- (C) Physical barriers;
- (D) Ventilation; and
- (E) Aerosol generating procedures.
- (5) Employer-specific or multi-employer workplace agreements related to infection control policies and procedures, the use of common areas, and the use of shared equipment that affect employees at the worksite.
- (6) Employer-specific policies and procedures for PPE worn to comply with this section, including:
- (A) When PPE is required for protection.
- (B) Limitations of PPE for protection against the airborne infectious disease.
- (C) How to properly put on, wear, and take off PPE.
- (D) How to properly care for, store, clean, maintain, and dispose of PPE.
- (E) Any modifications to donning, doffing, cleaning, storage, maintenance, and disposal procedures needed to address the airborne infectious disease when PPE is worn to address workplace hazards other than the airborne infectious disease.
- (F) Workplace-specific policies and procedures for cleaning and disinfection of PPE.
- (7) Employer-specific policies and procedures on health screening and medical management.
- (8) Available sick leave policies, any airborne infectious disease-related benefits to which the employee may be entitled under applicable federal, state, or local laws, and other supportive policies and practices to include telework or flexible hours.

- (9) The identity of the safety coordinator(s) specified in the Airborne Infectious Disease Plan.
- (10) How to notify the business or operation of any symptoms of the airborne infectious disease or a suspected or confirmed diagnosis of the airborne infectious disease.
- (11) How and to whom to report unsafe working conditions related to the airborne infectious disease, as well as the protocol for responding to such reports.
- (12) The anti-retaliation and anti-discrimination provisions of Section of this Subchapter.
- (13) How the employee can obtain copies of this section and any employer specific policies and procedures developed under this section, including the employer's written Airborne Infectious Disease Plan, if required.

(c) Employers may rely on training completed prior to the effective date of this section to the extent that it meets the relevant training requirements under this paragraph.

(d) The employer shall provide each employee with additional training whenever the following occurs:

- (1) Changes occur that affect the employee's risk of contracting the airborne infectious disease at work to include new job tasks;
- (2) Policies or procedures change; or
- (3) There is an indication that the employee has not retained the necessary understanding or skill.

(e) The employer shall implement training that is either overseen or conducted by a person knowledgeable in the covered subject matter as it relates to the employee's job duties.

(f) The employer shall provide training that provides an opportunity for interactive questions and answers with a person knowledgeable in the covered subject matter as it relates to the employee's job duties.

Authority G.S. 95-133.

13 NCAC 07I.0402 TEMPORARY MEDICAL REMOVAL FROM THE WORKPLACE

(a) If the employer knows an employee has a confirmed positive test for an airborne infectious disease or has been diagnosed by a licensed healthcare provider, then the employer must immediately remove that employee from the workplace and keep them removed until they meet the employer's established return-to-work criteria.

(b) Nothing in this Rule shall prohibit an employer from permitting a worker known or suspected to be infected with the airborne infectious disease from engaging in teleworking or other forms of offsite work that would not result in exposing other employees to the airborne infectious disease.

(c) If the employer knows an employee is experiencing symptoms of the airborne infectious disease as identified by the CDC, then the employer must immediately remove that employee and either:

- (1) Keep the employee removed until they meet the return-to-work criteria in Paragraph (f) of this Rule; or
- (2) Keep the employee removed and provide an airborne infectious disease polymerase chain reaction (PCR) test at no cost to the employee.
 - (A) If the test results are negative, the employee may return to work immediately.
 - (B) If the test results are positive, the employer must comply with the Rules on Recordkeeping in this Section.

(d) Any time an employee is required to be removed from the workplace for any reason under this section, the employer may require the employee to work remotely or in isolation if suitable work is available.

(e) Where the employer has a policy or a practice of making such payments, employers must use sick leave in order to pay the employee their same regular pay when an employer removes an employee under this Section, in accordance with state law. This subsection does not apply where the employee received disability payments, is covered by workers' compensation, or receives temporary disability.

(f) The determination of when an employee may return to work after an airborne infectious disease-related workplace removal must be based on and be in accordance with guidance from a licensed healthcare provider or the CDC.

(g) When an employee returns to work after temporary medical removal, the employer shall return the employee to his or her former job status. This requirement is not intended to expand upon or restrict any rights an employee has or would have had, absent temporary medical removal, to a specific job classification or position under the terms of a collective bargaining agreement.

Authority G.S. 95-133.

13 NCAC 07I.0403 RECORDKEEPING

(a) Small employer exclusion. Employers with 10 or fewer employees on the effective date of this section are not required to comply with the Recordkeeping requirements.

(b) Employers must establish and maintain a log to record each instance identified by the employer in which an employee is positive for an airborne infectious disease, regardless of whether the instance is connected to exposure to the airborne infectious disease at work.

(c) The log must contain, for each instance, the employee's name, one form of contact information, occupation, location where the employee worked, the date of the employee's last day at the workplace, the date of the positive test for, or diagnosis of, the airborne infectious disease, and the date the employee initially had one or more symptoms, if any were experienced.

(d) The information in the log must be recorded within 24 hours of the employer learning that the employee is positive and must be maintained as a confidential medical record and must not be disclosed except as required by this Rule or other federal or state law.

(e) The log must be maintained and preserved while this Rule remains in effect.

(f) Availability of records. By the end of the next business day after a request, the employer must provide, for examination and copying:

- (1) The individual log entry for a particular employee to that employee and to anyone having written authorized consent of that employee.
- (2) A version of the log that removes the names of employees, contact information, and occupation, and only includes, for each employee in the log, the location where the employee worked, the last day that the employee was at the workplace before removal, the date of that employee's positive test for, or diagnosis of, the airborne infectious disease, and the date the employee first had one or more symptoms, if any were experienced, to any employees, or their authorized representatives.

(g) Employers shall record all work-related confirmed cases of the airborne infectious disease on their OSHA Forms 300, 300A, and 301, or the equivalent forms, if required to do so under 29 CFR part 1904.

Authority G.S. 95-133.

13 NCAC 07I .0404 REPORTING FATALITIES AND HOSPITALIZATIONS

All employers shall report to the OSH Division the following:

- (1) Each fatality that is the result of an airborne infectious disease within 8 hours of the employer learning about the fatality.
- (2) Each airborne infectious disease employee inpatient hospitalization within 24 hours of the employer learning about the inpatient hospitalization.
- (3) When reporting airborne infectious disease fatalities and in-patient hospitalizations to the OSH Division in accordance with this section, the employer must follow the requirements in 29 CFR 1904.39, except for 29 CFR 1904.39(a)(1) and (2) and (b)(6).

Authority G.S. 95-133.

Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Labor intends to adopt the rules cited as 13 NCAC 16 .0701-.0704.

Link to agency website pursuant to G.S. 150B-19.1(c):
<https://www.labor.nc.gov/rules-and-regulations>

Proposed Effective Date: *December 1, 2024*

Public Hearing:

Date: *January 23, 2024*

Time: *10:00 a.m.*

Location: *<https://call.lifesizecloud.com/20075131> or call +1 (312) 584-2401, 20075131#*

Reason for Proposed Action: *The North Carolina Department of Labor received a rulemaking petition. The Commissioner granted the petition. This is the publication of the Notice of Text pursuant to the petition. Placement of the attached proposed rules would be in a new section: SECTION .0700 - AIRBORNE INFECTIOUS DISEASES. The North Carolina Department of Labor also seeks to reserve an additional new section: SECTION .0600.*

Comments may be submitted to: *Jill F. Cramer, Rulemaking Coordinator, 1101 MSC, Raleigh, NC 27699-1101; email jill.cramer@labor.nc.gov*

Comment period ends: *March 4, 2024*

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☐ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact (\geq \$1,000,000)**
- ☐ **Approved by OSBM**
- ☒ **No fiscal note required**

CHAPTER 16 - MIGRANT HOUSING

SECTION .0700 – AIRBORNE INFECTIOUS DISEASES

13 NCAC 16 .0701 SCOPE AND APPLICATION

(a) The Rules in the Section establish requirements for migrant housing operators, as defined in G.S. 95-223.

(b) The Rules establish methods for operators to assess the risk of, prepare for, control, prevent, and mitigate the spread of an airborne infectious disease among migrants, and their dependents, who are employed in agricultural employment of a seasonal or other temporary nature.

(c) The Rules shall supplement Migrant Housing Act, the Rules of this Chapter, and the Occupational Safety and Health Act of

North Carolina (OSHNC) Rules, regulations, and standards applicable to airborne infectious disease-related hazards, including, but not limited to standards that address personal protective equipment (PPE), respiratory protective equipment, face coverings, sanitation.

(d) The Rules in this Section shall not conflict with requirements and guidelines applicable to businesses set out in any applicable North Carolina Executive order or order of public health emergency, and all applicable federal standards to the extent practicable.

(e) This Section shall apply to every migrant housing operator in North Carolina within the jurisdiction of Agricultural Safety and Health Bureau of the North Carolina Department of Labor, and those employees in the area of agricultural employment as defined in G.S. 95-223.

(f) This Section shall only apply to an airborne infectious agent or disease designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services ("DHHS"), World Health Organization, or Centers for Disease Control ("CDC") as presenting a public health emergency.

(g) The Rules in this Section shall not apply to any seasonal or endemic infectious bacterial, viral, or fungal disease, such as the seasonal flu, that has not been designated an airborne infectious disease pursuant to Paragraph (f) of this Rule.

Authority G.S. 95-4; 95-222; 95-224; 95-227.

13 NCAC 16 .0702 DEFINITIONS

In addition to the definitions set out in G.S. 95-223 and 13 NCAC 16 .0103, the following definitions apply to the Rules in this Section:

- (1) "Agricultural employer" means any person who recruits, solicits, hires, employs, furnishes, or transports any migrant.
- (2) "Airborne infectious disease" means any infectious viral, bacterial, or fungal disease that is transmissible through the air in the form of aerosol particles or droplets and is designated by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, North Carolina Department of Health and Human Services, World Health Organization, or Centers for Disease Control as presenting a public health emergency.
- (3) "Asymptomatic" means the condition of a person who does not have symptoms of an airborne infectious disease.
- (4) "CDC" means the Centers for Disease Control and Prevention.
- (5) "Cleaning" shall mean the removal of visual dirt and impurities, including germs, from surfaces.
- (6) "Coronavirus" means an airborne infectious disease named SARS-CoV-2.
- (7) "DHHS" means the North Carolina Department of Health and Human Services.

(8) "Disinfecting" and "disinfect" means using chemicals approved for use against an airborne infectious bacterial, viral, or fungal disease, for example EPA-registered disinfectants, to kill germs on surfaces.

(9) "Employee," "employer," and "person" are defined in the Occupational Safety and Health Act of North Carolina in G.S. 95-127 and shall apply to this Section.

(10) "Face covering" means a surgical mask, a medical procedure mask, a respirator worn voluntarily, or a tightly woven fabric or non-woven material of at least two layers. A face covering has no visible holes or openings and must cover the nose and mouth. A face covering does not include a scarf, ski mask, balaclava, bandana, turtleneck, collar, or single layer of fabric.

(11) "Feasible" means capable of being done.

(12) "Hand sanitizer" means alcohol-based hand sanitizer that is at least 60 percent alcohol or 70 percent isopropanol.

(13) "Hygiene supplies" means paper towels, toilet paper, hand soaps, and hand sanitizer.

(14) "Suspected to be infected with the airborne infectious agent or disease" means a person that has signs or physical symptoms of an airborne infectious disease but has not tested positive and no alternative diagnosis has been made, such as being positive for the influenza.

(15) "Symptomatic" means the employee is experiencing symptoms similar to those attributed to the airborne infectious disease.

Authority G.S. 95-4; 95-222; 95-224; 95-227.

13 NCAC 16 .0703 TRANSPORTATION OF MIGRANT WORKERS

During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or the CDC of an airborne infectious bacteria, virus, or fungal disease as presenting a public health emergency is in effect, all agricultural employers who provide transportation for migrants between worksites shall:

- (1) Transport migrants in vehicles that allow persons to sit at least six feet apart or maintain partitions in between the various persons inside the vehicle. For vehicles with aisles between seats, agricultural employers must require migrants be positioned with one migrant per side, staggered in an alternating, diagonal arrangement.
- (2) Prioritize transporting only migrants residing in the same migrant housing unit in the same vehicle. Migrants who do not share the same household or work crew shall be transported in the same vehicle only when no alternative transportation means are feasible.

- (3) Clean and disinfect work vehicles daily. Agricultural employers must pay employees for the time spent cleaning and disinfecting.
- (4) Use the vehicle's ventilation system to exchange fresh air in from outside the vehicle. Lower the vehicle's windows when the weather permits.
- (5) Require that migrants and drivers wear a face covering while using employer-provided transportation. Operators shall provide a face covering to anyone in the vehicle who does not have one.
- (6) Provide hand sanitizer in each vehicle and require all that drivers and riders sanitize their hands before entering and exiting the vehicle.

- (4) Post the name, phone number, and email address of the person trained to administer first aid in a prominent location to the migrant housing.
- (5) Post the housing address in a central location of the migrant housing to provide all housing occupants or employees with the physical location of the house to provide the address if a call to emergency medical personnel is required to be made.
- (6) Post the phone number in a central location of the migrant housing for the North Carolina Coronavirus hotline and/or any statewide hotline established by the State of North Carolina related to an airborne infectious disease and include on the posting a statement that if migrants would like to make a confidential complaint about unsafe migrant housing conditions related to an airborne infectious disease, they may call the hotline number. This posting must be in Spanish, English, and any other primary languages common in the migrant population at the housing site.

- (7) Present any communication or training on airborne infectious disease control practices in Spanish, English, and any other primary languages common in the migrant workers.
- (8) When available from the CDC, DHHS, or the local health department, place posters in the migrant housing related to the use of airborne infectious disease prevention methods. If available, posters must be posted in the languages common in the migrant population.

(c) Sanitation in Migrant Housing. All migrant housing operators shall:

- (1) Provide hand sanitizer that is readily available in multiple locations in employer-provided migrant housing.
- (2) Monitor hygiene supplies in restrooms, portable toilets, and handwashing/sanitizing stations in the migrant housing and immediately re-stock when hygiene supplies are not available.
- (3) Monitor and immediately restock cleaning and disinfecting supplies for each migrant housing unit when cleaning and disinfecting supplies are depleted.
- (4) Require that the manufacturer's instructions for use of all disinfecting chemicals and products are complied with to include, but not be limited to, concentration, application method, contact time, personal protective equipment required for use.

(d) Separate Facilities. During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or the CDC of an airborne infectious

Authority G.S. 95-4; 95-222; 95-224; 95-227.

13 NCAC 16 .0704 PROTECTIONS IN MIGRANT HOUSING

(a) During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or CDC of an airborne infectious disease as presenting a public health emergency is in effect, all migrant housing operators shall:

- (1) Provide at least seven washable face coverings or at least one disposable face covering per day at no charge to each resident of the housing.
- (2) Separate beds by at least six feet or more in all directions and arrange the beds in head to toe sleeping arrangements. Only one person shall be permitted to sleep in a bed or bunk bed. This provision does not apply to family members who live in their own family unit of the employer-provided housing.
- (3) Install partitions between each toilet and between each shower stall.
- (4) Provide ventilation of rooms by opening screened windows and doors to increase the introduction of outside air, or by providing a portable high-efficiency particulate air (HEPA) filter in each room used for sleeping.
- (5) Require anyone who delivers food and water to migrant housing occupants to wear masks or other protective equipment as recommended by the CDC, DHHS, or the local health department.

(b) Communication. All migrant housing operators shall:

- (1) Request emergency contact numbers from each housing occupant.
- (2) Provide housing occupants with access to the phone number of the local health department.
- (3) Report to the local health officer the name and address of any individual in the migrant housing location known to have or suspected of having a communicable disease.

disease as presenting a public health emergency is in effect, all migrant housing operators shall:

- (1) Provide separate sleeping areas for each of the following groups, if recommended by current CDC guidance:
 - (A) Residents who are considered to be contagious based on current CDC guidance; and
 - (B) Residents who are not considered to be contagious based on current CDC guidance.
- (2) Provide separate bathing, toileting and eating facilities to each group in Subparagraph (d)(1) of this Rule where feasible. If it is not feasible to provide separate bathing, toileting and eating facilities, the housing operators shall implement schedules for when each group shall use those facilities. Operators shall clean and disinfect bathing, toileting, and eating facilities daily.
- (3) The separate facilities described in Subparagraph (d)(1) of this Rule shall be provided for the period of time recommended by the CDC.
- (4) If there is no separate space available on-site to provide separate housing, the operator must provide alternative housing off-site.
- (5) Within 24 hours of a resident becoming symptomatic for being infected with an airborne infectious disease, the operator must arrange for that person to be evaluated by a medical provider through the local health department or federally qualified health center as defined in 42 U.S.C. 1396d(l)(2)(A). If testing for the airborne infectious disease is feasible, all residents shall be tested.
- (6) To the extent permitted by existing healthcare laws, housing operators shall establish a system to receive reports of positive airborne infectious disease tests by housing occupants within the previous 14 days from the date of the positive test, and to receive reports by occupants of the migrant housing, and the housing operator shall notify:
 - (A) All occupants of the migrant housing location where the person with the positive test resides;
 - (B) The DHHS and the county Department of Health within 24 hours of the discovery of a positive case and include in the notification the industry, the person's occupation, and the type of housing in which the person lives.
- (7) If a migrant housing occupant is confirmed to have the airborne infectious disease, the migrant housing operator shall conduct cleaning and disinfection of the living space

occupied by the migrant housing occupant as directed by CDC guidelines.

(e) Screening and Testing. During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or CDC of an airborne infectious disease as presenting a public health emergency is in effect, all migrant housing operators shall:

- (1) Provide symptom screening, and testing if feasible, for all newly arriving residents within 48 hours of their arrival unless the resident has already been tested in the 72 hours prior to arrival.
- (2) Whenever new migrants arrive, house them in a separate living unit from current residents until newly arriving residents have a negative test result, or until either five days elapse, in which the newly arriving migrant does not become symptomatic or until the conclusion of the recommended CDC quarantine period. If separate housing is not available, newly arriving migrants shall be required to wear a cloth or disposable face covering at all times except when eating, drinking, sleeping, or performing personal hygiene activities or if the resident cannot medically tolerate a face covering, until the newly arriving resident receives a negative test result or until five days or the CDC recommended time period elapses in which the newly arriving resident does not become symptomatic.
- (3) If a newly arriving migrant tests positive on a test for an airborne infectious disease or becomes symptomatic of that disease, the procedures outlined in Subparagraph (d)(4) of this Rule should be followed.
- (4) Cooperate with local health departments to provide for regular testing, if feasible, to all migrants by coordinating with health departments and clinics to schedule planned testing events at times and locations that are convenient to the occupants, and affirmatively stating that migrant will not be retaliated against if they test positive.

(f) During the time a designation by the Governor of North Carolina, North Carolina General Assembly, U.S. Department of Health and Human Services, DHHS, World Health Organization, or CDC of an airborne infectious disease as presenting a public health emergency is in effect, during pre-occupancy inspections or when responding to a complaint, the Department shall confirm operators are in compliance with these Rules.

Authority G.S. 95-4; 95-222; 95-224; 95-227.

**TITLE 15A – DEPARTMENT OF ENVIRONMENTAL
QUALITY**

Notice is hereby given in accordance with G.S. 150B-21.2 that the Environmental Management Commission intends to amend the rule cited as 15A NCAC 02Q .0802.

Link to agency website pursuant to G.S. 150B-19.1(c):
<http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Proposed Effective Date: July 1, 2024

Public Hearing:

Date: February 8, 2024

Time: 6:00 p.m.

Location: 1st Floor Training Room (#1210), DEQ Green Square Office Building, 217 West Jones St., Raleigh, NC 27603 or virtually using Cisco WebEx, Digital Hearing Link: <https://tinyurl.com/5c6j8phh>
Meeting password: NCDAQ

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 2426 601 7892

If you wish to speak at the digital public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 4:00 PM on February 8, 2024. To register, please go to the following link: <https://forms.office.com/g/p4tmfne7xZ>

*For instructions on ways to join the public hearing, please refer to the following link: <https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0>

*If you have technical difficulties, the following automated voicemail has been set up to receive your verbal comments: 919-707-8430

Reason for Proposed Action: To receive comments on the proposed amendments to 15A NCAC 02Q .0802, the exclusionary rule for Gasoline Service Stations and Dispensing Facilities, and on the accompanying regulatory impact analysis for the proposed amendments. The amendments in this rulemaking are proposed to increase the annual gasoline throughput limit under which gasoline service stations and dispensing facilities may remain a minor source for Title V permitting. The limit is recalculated to reflect the increased presence of onboard refueling vapor recovery (ORVR) emissions control equipment in the light duty gasoline vehicles refueling at these facilities. On November 9, 2023, the Environmental Management Commission approved proceeding to public comment on the proposed amendments. The text of the rules and regulatory impact analysis are available on the DAQ website: <http://deq.nc.gov/about/divisions/air-quality/air-quality-rules/rules-hearing-process>

Comments may be submitted to: Katherine Quinlan, 217 West Jones St., 1641 Mail Service Center, Raleigh, NC 27699-1641; phone (919) 707-8702; fax (919) 715-0717; email daq.publiccomments@deq.nc.gov (Please type "Gasoline Station Exclusionary Rule Revision" in subject line)

Comment period ends: March 4, 2024

Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to oah.rules@oah.nc.gov. If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- ☒ **State funds affected**
- ☐ **Local funds affected**
- ☐ **Substantial economic impact (\geq \$1,000,000)**
- ☒ **Approved by OSBM**
- ☐ **No fiscal note required**

CHAPTER 02 - ENVIRONMENTAL MANAGEMENT

SUBCHAPTER 02Q - AIR QUALITY PERMITS PROCEDURES

SECTION .0800 - EXCLUSIONARY RULES

15A NCAC 02Q .0802 GASOLINE SERVICE STATIONS AND DISPENSING FACILITIES

(a) For the purpose of this Rule the following definitions shall apply:

- (1) "Gasoline dispensing facility" means any site where gasoline is dispensed to motor vehicle gasoline tanks from stationary storage tanks.
- (2) "Gasoline service station" means any gasoline dispensing facility where gasoline is sold to the motoring public from stationary storage tanks.

(b) This Rule shall apply only to gasoline service stations and gasoline dispensing facilities that are in compliance with 15A NCAC 02D .0928.

(c) Potential emissions ~~from~~ from gasoline service stations and gasoline dispensing facilities shall be determined using actual gasoline throughput.

(d) A gasoline service station or gasoline dispensing facility that has an annual throughput, on a calendar month rolling average basis, of less than ~~15,000,000~~ 52,000,000 gallons shall be exempt from the requirements of 15A NCAC 02Q .0500.

(e) The owner or operator of a gasoline service station or gasoline dispensing facility exempted by this Rule from 15A NCAC 02Q .0500 shall submit a report containing the information described in Paragraph (f) of this Rule if:

- (1) annual throughput exceeds ~~10,000,000~~ 45,000,000 gallons, by the end of the month following the month that throughput exceeds ~~10,000,000~~ 45,000,000 gallons and every 12 months thereafter;
- (2) annual throughput exceeds ~~13,000,000~~ 50,000,000 gallons, by the end of the month following the month that throughput exceeds ~~13,000,000~~ 50,000,000 gallons and every six months thereafter; or
- (3) annual throughput exceeds ~~15,000,000~~ 52,000,000 gallons, by the end of the month following the month that throughput exceeds ~~15,000,000~~ 52,000,000 gallons and shall submit a permit application pursuant to 15A NCAC 02Q .0500.

(f) The report required by Paragraph (e) of this Rule shall include:

- (1) the name and location of the gasoline service station or gasoline dispensing facility;
- (2) the annual throughput of gasoline for each of the 12-month periods ending on each month

since the previous report was submitted, including monthly gasoline throughput for each month required to calculate the annual gasoline throughput for each 12-month period; and

- (3) the signature of the responsible official, as defined in 15A NCAC 02Q .0303, certifying as to the truth and accuracy of the report.

(g) The owner or operator of a gasoline service station or gasoline dispensing facility exempted by this Rule from the requirements of 15A NCAC 02Q .0500 shall provide documentation of annual throughput to the Director upon request. The owner or operator of a gasoline service station or gasoline dispensing facility exempted by this Rule from the requirements of 15A NCAC 02Q .0500 shall retain records to document annual throughput for all 12-month periods during the previous three years.

(h) For facilities governed by this Rule, the owner or operator shall report to the Director any exceedance of a requirement of this Rule within one week of its occurrence.

Authority G.S. 143-215.3(a); 143-215.107(a)(10); 143-215.108.

*This Section includes a listing of rules approved by the Rules Review Commission followed by the full text of those rules. The rules that have been approved by the RRC in a form different from that originally noticed in the Register or when no notice was required to be published in the Register are identified by an * in the listing of approved rules. Statutory Reference: G.S. 150B-21.17.*

Rules approved by the Rules Review Commission at its meeting on November 16, 2023 Meeting.

**REGISTER CITATION TO THE
NOTICE OF TEXT**

AGRICULTURE, BOARD OF

<u>Importation Requirements: Rabbits, or Any Species in the ...</u>	02 NCAC	52B .0214*	37:18 NCR
<u>Eligible Expenses</u>	02 NCAC	52J .0901*	37:18 NCR
<u>Application Guidelines</u>	02 NCAC	52J .0902*	37:18 NCR
<u>Evaluation of Applications</u>	02 NCAC	52J .0903*	37:18 NCR

MEDICAL CARE COMMISSION

<u>Discharge of Residents</u>	10A NCAC	13F .0702*	37:18 NCR
<u>Special Care Unit Resident Profile and Care Plan</u>	10A NCAC	13F .1307*	37:18 NCR
<u>Discharge of Residents</u>	10A NCAC	13G .0705*	37:18 NCR
<u>Use of Physical Restraints and Alternatives</u>	10A NCAC	13G .1301*	37:18 NCR

CRIMINAL JUSTICE EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Criminal Justice Instructor Training</u>	12 NCAC	09B .0209*	37:19 NCR
<u>Evaluation for Training Waiver</u>	12 NCAC	09B .0403*	37:19 NCR
<u>Certification of School Directors</u>	12 NCAC	09B .0501*	37:19 NCR
<u>Terms and Conditions of School Director Certification</u>	12 NCAC	09B .0502*	37:19 NCR
<u>Certification of School Directors</u>	12 NCAC	09G .0405*	37:19 NCR
<u>Terms and Conditions of School Director Certification</u>	12 NCAC	09G .0406*	37:19 NCR

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

<u>Evaluation for Training Waiver</u>	12 NCAC	10B .0603*	38:02 NCR
---------------------------------------	---------	------------	-----------

REVENUE, DEPARTMENT OF

<u>Research Services</u>	17 NCAC	07B .0115*	n/a G.S. 150B-1(d)(4)
<u>Advertising and Advertising Agencies</u>	17 NCAC	07B .0901*	n/a G.S. 150B-1(d)(4)
<u>Advertising Artists</u>	17 NCAC	07B .0902*	n/a G.S. 150B-1(d)(4)
<u>Public Relations Firms</u>	17 NCAC	07B .0904*	n/a G.S. 150B-1(d)(4)
<u>Farm Machinery: Equipment Services</u>	17 NCAC	07B .1101*	n/a G.S. 150B-1(d)(4)
<u>Certain Sales to Commercial Animal Farmers</u>	17 NCAC	07B .1123*	n/a G.S. 150B-1(d)(4)
<u>Out-of-State Deliveries</u>	17 NCAC	07B .1301*	n/a G.S. 150B-1(d)(4)
<u>In-State Deliveries</u>	17 NCAC	07B .1302*	n/a G.S. 150B-1(d)(4)
<u>Foreign Commerce: Purchases for Export</u>	17 NCAC	07B .1305*	n/a G.S. 150B-1(d)(4)
<u>Refunds to Nonprofit Entities</u>	17 NCAC	07B .1602*	n/a G.S. 150B-1(d)(4)
<u>Governmental Sales and Purchases</u>	17 NCAC	07B .1701*	n/a G.S. 150B-1(d)(4)
<u>Refunds to Counties, Cities, and other Governmental Entities</u>	17 NCAC	07B .1702*	n/a G.S. 150B-1(d)(4)
<u>Governmental Entities not Eligible for Refunds</u>	17 NCAC	07B .1704*	n/a G.S. 150B-1(d)(4)
<u>Sales to and Purchases by Hospitals and Similar Institutions</u>	17 NCAC	07B .1801*	n/a G.S. 150B-1(d)(4)
<u>Tire Retreaders</u>	17 NCAC	07B .1905*	n/a G.S. 150B-1(d)(4)
<u>Scrap Tire Disposal Tax</u>	17 NCAC	07B .1907*	n/a G.S. 150B-1(d)(4)

APPROVED RULES

<u>Electricity, Piped Natural Gas, and Other Fuel</u>	17 NCAC 07B .2101*	n/a G.S. 150B-1(d)(4)
<u>Sawdust Used as Fuel</u>	17 NCAC 07B .2102*	n/a G.S. 150B-1(d)(4)
<u>Aviation Fuel</u>	17 NCAC 07B .2105*	n/a G.S. 150B-1(d)(4)
<u>Food and Food Products</u>	17 NCAC 07B .2201*	n/a G.S. 150B-1(d)(4)
<u>Catering</u>	17 NCAC 07B .2205*	n/a G.S. 150B-1(d)(4)
<u>School Stores' Sales</u>	17 NCAC 07B .2209*	n/a G.S. 150B-1(d)(4)
<u>Summer Camps and Similar Camps</u>	17 NCAC 07B .2210*	n/a G.S. 150B-1(d)(4)
<u>Sales of Fish and Other Seafoods</u>	17 NCAC 07B .2212*	n/a G.S. 150B-1(d)(4)
<u>Service Charges Imposed on Food, Beverages, or Prepared Food</u>	17 NCAC 07B .2213*	n/a G.S. 150B-1(d)(4)
<u>In General</u>	17 NCAC 07B .2301*	n/a G.S. 150B-1(d)(4)
<u>Sales of Medical Supplies and Equipment to Veterinarians</u>	17 NCAC 07B .2401*	n/a G.S. 150B-1(d)(4)
<u>Asphalt Plants: Concrete Plants: Weigh Hoppers</u>	17 NCAC 07B .2603*	n/a G.S. 150B-1(d)(4)
<u>Sand: Dirt: Stone</u>	17 NCAC 07B .2604*	n/a G.S. 150B-1(d)(4)
<u>Sandblast Sand</u>	17 NCAC 07B .2605*	n/a G.S. 150B-1(d)(4)
<u>Sales to Dentists and Orthodontists</u>	17 NCAC 07B .2701*	n/a G.S. 150B-1(d)(4)
<u>Sales to Dental Laboratories</u>	17 NCAC 07B .2702*	n/a G.S. 150B-1(d)(4)
<u>Florists: Nursery and Greenhouse Operators</u>	17 NCAC 07B .2801*	n/a G.S. 150B-1(d)(4)
<u>Florists Wire Sales</u>	17 NCAC 07B .2802*	n/a G.S. 150B-1(d)(4)
<u>Sales Through Vending Machines</u>	17 NCAC 07B .2901*	n/a G.S. 150B-1(d)(4)
<u>Used Property</u>	17 NCAC 07B .3004*	n/a G.S. 150B-1(d)(4)
<u>Transfer of Inventory Held for Resale to New Business</u>	17 NCAC 07B .3009*	n/a G.S. 150B-1(d)(4)
<u>Cable Service Providers</u>	17 NCAC 07B .3106*	n/a G.S. 150B-1(d)(4)
<u>Production Companies</u>	17 NCAC 07B .3107*	n/a G.S. 150B-1(d)(4)
<u>Exempt Prosthetic Devices</u>	17 NCAC 07B .3301*	n/a G.S. 150B-1(d)(4)
<u>Exempt Durable Medical Equipment and Durable Medical Supp...</u>	17 NCAC 07B .3302*	n/a G.S. 150B-1(d)(4)
<u>Promotional Items and Gifts</u>	17 NCAC 07B .3801*	n/a G.S. 150B-1(d)(4)
<u>Gift Certificates and Gift Cards</u>	17 NCAC 07B .3804*	n/a G.S. 150B-1(d)(4)
<u>Deposits for Reusable Containers</u>	17 NCAC 07B .3907*	n/a G.S. 150B-1(d)(4)
<u>Returnable Containers</u>	17 NCAC 07B .3910*	n/a G.S. 150B-1(d)(4)
<u>Sales of Photographs and Videos</u>	17 NCAC 07B .4102*	n/a G.S. 150B-1(d)(4)
<u>Photo Supplies and Materials</u>	17 NCAC 07B .4105*	n/a G.S. 150B-1(d)(4)
<u>Photoengravings: Electrotypes: Etc.</u>	17 NCAC 07B .4106*	n/a G.S. 150B-1(d)(4)
<u>Federal Credit Unions and the Farm Credit System</u>	17 NCAC 07B .4205*	n/a G.S. 150B-1(d)(4)
<u>Refunds to Interstate Carriers</u>	17 NCAC 07B .4301*	n/a G.S. 150B-1(d)(4)
<u>Refunds to Railroad Companies</u>	17 NCAC 07B .4302*	n/a G.S. 150B-1(d)(4)
<u>Lease Receipts</u>	17 NCAC 07B .4401*	n/a G.S. 150B-1(d)(4)
<u>Maintenance of Leased Property</u>	17 NCAC 07B .4403*	n/a G.S. 150B-1(d)(4)
<u>Insurance on Leased Property</u>	17 NCAC 07B .4406*	n/a G.S. 150B-1(d)(4)
<u>Extension of Leases Subject to a Maximum Tax</u>	17 NCAC 07B .4411*	n/a G.S. 150B-1(d)(4)
<u>Conditional Sales Contract</u>	17 NCAC 07B .4413*	n/a G.S. 150B-1(d)(4)

GENERAL CONTRACTORS, LICENSING BOARD FOR

<u>Classification</u>	21 NCAC 12A .0202*	38:04 NCR
<u>Character References</u>	21 NCAC 12A .0308	38:04 NCR
<u>Witnesses</u>	21 NCAC 12A .0828*	38:04 NCR

COSMETIC ART EXAMINERS, BOARD OF

<u>Submission of Records</u>	21 NCAC 14T .0501*	37:23 NCR
------------------------------	--------------------	-----------

DENTAL EXAMINERS, BOARD OF

Examination Required; Exemptions

Dental Licensure by Credentials

Dental Licensure Via Instructor's License

21 NCAC 16B .0101 37:16 NCR

21 NCAC 16B .0501 37:16 NCR

21 NCAC 16B .0502 37:16 NCR

NURSING, BOARD OF

Clinical Nurse Specialist Practice

21 NCAC 36 .0228* 38:01 NCR

**TITLE 02 - DEPARTMENT OF AGRICULTURE AND
CONSUMER SERVICES**

**02 NCAC 52B .0214 IMPORTATION
REQUIREMENTS: RABBITS, OR ANY SPECIES IN THE
ORDER LAGOMORPHA, INCLUDING HARES AND
PIKAS**

(a) An import permit from the State Veterinarian is required for the importation of a rabbit, or any species in the order of Lagomorpha, including hare and pika, into the State of North Carolina originating from:

- (1) any country or state with Rabbit Hemorrhagic Disease Virus-2 ("RHDV-2") detected; or
- (2) a state or country without RHDV-2 if the animal makes any intervening stop in a country or state with RHDV-2 detected, if the animal is commingled or exposed to any other animal in the order of Lagomorpha not being shipped directly from the point of origin together, or if the imported rabbit is exposed to materials such as cages, beddings, and supplies that have been in contact with another animal in the order of Lagomorpha not shipped directly from the point of origin together.

(b) The import permit application shall be accompanied by an official health certificate, as detailed in 02 NCAC 52B .0202, certifying the animal to be free from any contagious animal disease, including RHDV-2, as follows:

- (1) If the animal is shipped directly without any intervening stops, without commingling or exposure to any other animal in the order of Lagomorpha not being shipped directly from the point of origin together, and without exposure to materials such as cages, beddings, and supplies that have been in contact with another animal in the order of Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained within 7 days of the date of importation into North Carolina.
- (2) If the animal is shipped with intervening stops, with commingling or exposure to another animal in the order of Lagomorpha not being shipped directly from the point of origin together, or with exposure to materials such as cages, beddings, and supplies that have been in contact with another animal in the order of

Lagomorpha not shipped directly from the point of origin together, then the official health certificate shall be obtained from the country or state of the last intervening stop, commingling, or exposure, and within 7 days of the date of importation into North Carolina.

(c) No permit is needed for rabbits, or any species in the order of Lagomorpha, including hare and pika, brought into the State on a temporary basis for the sole purpose of seeking veterinary services by a North Carolina licensed veterinarian, lasting only until the end of the veterinary service visit, and the animal is brought directly to the veterinary clinic and departs from the veterinary clinic to the originating state with no intervening stops.

(d) The application for an importation permit shall include the state of origin, the date that the official health inspection was conducted, the owner's name, address, and phone number at the time of import, the import destination within the State of North Carolina, the name, address, and phone number of the person with control and responsibility over the animal at the import destination, and any federal licensing, permit, and documentation required for the importation of the animal if imported from outside of the United States of America.

(e) A rabbit, or any species in the order of Lagomorpha, including hare and pika, requiring an import permit that is imported into North Carolina shall be accompanied by an official health certificate with the import permit number and shall be made available for inspection by the State Veterinarian or his or her designee upon request.

(f) An intervening stop is defined as a stop in a country or state longer than 24 hours but less than 10 days. The location of any stop for longer than 10 days shall be deemed the new country or state of origin.

(g) Health certificates issued outside of the United States shall be issued in English and by a veterinarian with a valid license to practice veterinary medicine in the country of export.

(h) The requirement for an entry permit and official health certificate are waived for a rabbit, or any species in the order of Lagomorpha, including hare and pika, for exhibitions or shows that adhere to the following guidelines:

- (1) A licensed and USDA accredited veterinarian, specifically a professional veterinarian who has completed formal training from the National Veterinary Accreditation Program (NVAP) in the state in which they are licensed to practice veterinary medicine, performs a health assessment outside of the exhibition or

show venue prior to any commingling of animals from separate origins, and prior to entry of the exhibition or show venue. For the purposes of this subchapter, a health assessment conducted by a licensed and USDA accredited veterinarian involves the veterinary examination of an animal to ensure that the animal is in good health and well-being, as well as free of any visible signs of pain, distress, suffering, or displaying any symptoms consistent with RHDV-2. If an animal is found to exhibit any symptoms consistent with RHDV-2, that animal as well as any cohorts, which includes animals from the same origin, animals that traveled together, or animals that where commingled, will be excluded from the exhibition or show and must return without any commingling of other animals directly to its origin location.

- (2) The exhibition or show administrators, upon request from the NCDA&CS Veterinary Division, shall provide the name, address, phone number, and number of animals for every participant in the exhibition or show for NCDA&CS disease epidemiological investigation and testing purposes.

History Note: Authority G.S. 106-317;
Emergency Adoption Eff. July 13, 2021;
Temporary Adoption Eff. September 24, 2021;
Eff. December 1, 2022;
Amended Eff. December 1, 2023.

02 NCAC 52J .0901 ELIGIBLE EXPENSES

Eligible expenses include:

- (1) Veterinary costs – Grant money may be requested for veterinary expenditures incurred for the assessment, diagnostic and triage evaluation, medical treatment, minor surgical treatment, medications, first aid and minor medical supplies, vaccinations, parasite control/treatment, or euthanasia of animals housed at the shelter.
- (2) Sanitation costs – Grant money may be requested for expenditures related to sanitation of the shelter, including detergent/disinfectant supplies, cleaning supplies, labor costs for the sanitation of the shelter, and waste and carcass disposal costs.
- (3) Animal sustenance and supplies – Grant money may be requested for expenditures for animal food, provision of water to the shelter, and food and water bowls or buckets, as well as labor costs for the feeding and watering of the shelter animals.
- (4) Temporary housing and sheltering of animals – Grant money may be requested for expenditures for animal cages and kennels, animal transport carriers, tarps, fencing, dog or

cat houses and other construction supplies, as well as labor costs or equipment or facility leasing expenses incurred during the construction or repair of temporary animal housing.

- (5) Administrative Costs – Grant money may be requested for administrative costs such as salaries, wages, mailing, copying, and printing.
- (6) Capital Expenditures – Grant money may be requested for capital expenditures for facility repairs, purchase of land or building(s) and equipment costs such as kennels, runs, or automated sanitation systems.
- (7) Grant money may be requested for administrative costs and capital expenditures as described in Items (5) and (6) of this Rule only if such costs are directly required for the facility to comply with the AWA (G.S. 19A-20 through 31) or the rules adopted by the Board of Agriculture (02 NCAC 52J) implementing that Act.

History Note: Authority G.S. 19A-67; 19A-68;
Temporary Adoption Eff. November 29, 2016;
Temporary Adoption Expired Eff. September 11, 2017;
Eff. November 1, 2017;
Readopted Eff. September 1, 2022;
Amended Eff. December 1, 2023.

02 NCAC 52J .0902 APPLICATION GUIDELINES

(a) A local government applying for grant money from the Animal Shelter Support Fund (the Fund) shall submit the completed application to the Animal Welfare Section (AWS) of the North Carolina Department of Agriculture and Consumer Services via email to agr.aws@ncagr.gov or by mail to Animal Welfare Section (AWS), NCDA&CS, 1030 Mail Service Center, Raleigh, NC 27699.

(b) Application instructions are available online at: <https://www.ncagr.gov/vet/aws/>. This application shall contain the following information:

- (1) the name and contact information for the local government official that will administer the grant money, and the name and contact information for the local government official that oversees the operation of the government animal shelter;
- (2) name, address, and contact information for the animal shelter for which the funds are being applied;
- (3) a copy of the AWS Order of Suspension, AWS Order of Revocation, or AWS Facility Compliance Inspection report citing the specific violation or violations for which the county is applying for the grant funds or the date and description of the incident and damage incurred by the unforeseen catastrophic disaster such as a hurricane, tornado, fire, flood, or other natural or man-made disaster at the animal shelter;

- (4) an explanation of how the applicant will use the grant funds to resolve or mitigate the cited violation or violations of the Animal Welfare Act (AWA) and its rules and how the applicant will ensure further compliance with the AWA (G.S. 19A-20 through 31) and its associated rules (02 NCAC 52J); and
- (5) an itemized listing of the costs for which funding is sought.

History Note: Authority G.S. 19A-67; 19A-68;
Temporary Adoption Eff. November 29, 2016;
Temporary Adoption Expired Eff. September 11, 2017;
Eff. November 1, 2017;
Readopted Eff. September 1, 2022;
Amended Eff. December 1, 2023.

02 NCAC 52J .0903 EVALUATION OF APPLICATIONS

- (a) Each completed application shall be evaluated by the Animal Welfare Section (AWS) staff.
- (b) The staff shall review all applications for completeness. If an application is incomplete, the applicant shall be asked to reapply with a new, completed application.
- (c) The following criteria shall be used to evaluate the applications:
 - (1) the thoroughness of the explanation of how the compliance violations will be resolved or mitigated with the use of the grant funds;
 - (2) the thoroughness of the explanation of the plans to ensure future compliance with the AWA (G.S. 19A-20 through 31) and its associated rules (02 NCAC 52J);
 - (3) in the incidence of an unforeseen catastrophic occurrence, such as a hurricane, tornado, fire, flood, or other natural or man-made disaster, the thoroughness of the explanation of how the grant funds will be used to mitigate the damage done by the incident;
 - (4) the amount of funds available;
 - (5) the amount of funds requested; and
 - (6) the order in which the application was received.

History Note: Authority G.S. 19A-67; 19A-68;
Eff. December 1, 2023.

TITLE 10A - DEPARTMENT OF HEALTH AND HUMAN SERVICES

10A NCAC 13F .0702 DISCHARGE OF RESIDENTS

- (a) The discharge of a resident initiated by the facility shall be according to conditions and procedures specified in Paragraphs (a) through (h) of this Rule. The discharge of a resident initiated by the facility involves the termination of residency by the facility resulting in the resident's move to another location and the facility not holding the bed for the resident based on the facility's bed hold policy.

- (b) The discharge of a resident initiated by the facility at the direction of the administrator or their designee shall be based on one of the following reasons:

- (1) the discharge is necessary to protect the welfare of the resident and the facility cannot meet the needs of the resident, as documented by the resident's physician, physician assistant, or nurse practitioner in the resident's record;
- (2) the health of the resident has improved sufficiently so that the resident is no longer in need of the services provided by the facility, as documented by the resident's physician, physician assistant, or nurse practitioner in the resident's record;
- (3) the safety of the resident or other individuals in the facility is endangered as determined by the facility at the direction of the administrator or their designee in consultation with the resident's physician, physician assistant, or nurse practitioner;
- (4) the health of the resident or other individuals in the facility is endangered as documented by a physician, physician assistant, or nurse practitioner in the resident's record; or
- (5) the resident has failed to pay the costs of services and accommodations by the payment due date according to the resident's contract after receiving written notice of warning of discharge for failure to pay.

- (c) The facility administrator or their designee shall assure the following requirements for written notice are met before discharging a resident:

- (1) The Adult Care Home Notice of Discharge with the Adult Care Home Hearing Request Form shall be completed and hand delivered, with receipt requested, to the resident on the same day the Adult Care Home Notice of Discharge is dated. These forms may be obtained at no cost from the Division of Health Benefits, on the internet website <https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms>. The Adult Care Home Notice of Discharge shall include the following:
 - (A) the date of notice;
 - (B) the date of transfer or discharge;
 - (C) the reason for the notice;
 - (D) the name of responsible person or contact person notified;
 - (E) the planned discharge location;
 - (F) the appeal rights;
 - (G) the contact information for the long-term care ombudsman; and
 - (H) the signature and date of the administrator.
- (2) A copy of the completed Adult Care Home Notice of Discharge and Adult Care Home Hearing Request Form shall be hand delivered, with receipt requested, or sent by certified mail

to the resident's responsible person or legal representative and the individual identified upon admission to receive a discharge notice on behalf of the resident on the same day the Adult Care Home Notice of Discharge is dated. For the purposes of this Rule "responsible person" means a person chosen by the resident to act on their behalf to support the resident in decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications. The Adult Care Home Hearing Request Form shall include the following:

- (A) the name of the resident;
- (B) the name of the facility;
- (C) the date of transfer or discharge;
- (D) the date of scheduled transfer or discharge;
- (E) the selection of how the hearing is to be conducted;
- (F) the name of the person requesting the hearing; and
- (G) for the person requesting the hearing, their relationship to the resident, address, telephone number, their signature, and date of the request.

- (3) Provide the following material in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the resident and the resident's legal representative and the individual identified upon admission to receive a copy the discharge notice on behalf of the resident:

- (A) a copy of the resident's most current FL-2 form required in Rule .0703 of this Subchapter;
- (B) a copy of the resident's current physician's orders, including medication order;

- (4) Failure to use and simultaneously provide the specific forms according to Subparagraphs (c)(1) and (c)(2) of this Rule shall invalidate the discharge.

- (5) A copy of the completed Adult Care Home Notice of Discharge, the Adult Care Home Hearing Request Form as completed by the facility administrator or their designee prior to giving to the resident and a copy of the receipt of hand delivery or the notification of certified mail delivery shall be maintained in the resident's record.

(d) The notices of discharge and appeal rights as required in Paragraph (c) of this Rule shall be made by the facility administrator or their designee, at least 30 days before the resident is discharged except that notices may be made as soon as practicable when:

- (1) the discharge is necessary to protect the welfare of the resident and the facility cannot

meet the needs of the resident under Subparagraph (b)(1) of this Rule; or reasons under Subparagraphs (b)(3) and (b)(4) of this Rule exist.

(2)

(e) The following shall be documented in the resident record and shall be made available upon request to potential discharge locations pursuant to the HIPAA Standards for Privacy of Individually Identifiable Health Information which is hereby incorporated by reference, including any amendments and subsequent editions, and can be found at no cost at <https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-individually-identifiable-health-information>:

(1)

The reason for discharge to include one or more of the following as applicable to the reasons under Paragraph (b) of this Rule:

- (A) documentation by physician, physician assistant or nurse practitioner as required in Paragraph (b) of this Rule;
- (B) the condition or circumstance that endangers the health or safety of the resident being discharged or endangers the health or safety of individuals in the facility, and the facility's action taken to address the problem prior to pursuing discharge of the resident;
- (C) written notices of warning of discharge for failure to pay the costs of services and accommodations; or
- (D) the specific health need or condition of the resident that the facility determined could not be met in the facility pursuant to G.S. 131D-2.2(a)(4) and as disclosed in the resident contract signed upon the resident's admission to the facility; and

(2)

any known involvement of law enforcement with the resident due to threatening behavior or violence toward self or others.

(f) The facility administrator or their designee shall document contacts with possible discharge locations and responses and make available this documentation, upon request, to the resident, legal representative, the individual identified upon admission to receive a discharge notice on behalf of the resident and the adult care home resident discharge team if convened. For the purposes of this Rule, "the individual identified upon admission to receive a discharge notice on behalf of the resident" may be the same person as the resident's legal representative or responsible person as identified in the resident's record.

(g) The facility administrator or their designee shall provide sufficient preparation and orientation to residents to ensure a safe and orderly discharge from the facility as evidenced by:

(1)

explaining to the resident and responsible person or legal representative and the individual identified upon admission to receive

- a copy of the discharge notice on behalf of the resident why the discharge is necessary;
- (2) informing the resident and responsible person or legal representative and the individual identified upon admission to receive a copy of the discharge notice on behalf of the resident about an appropriate discharge destination that is capable of meeting the needs of the resident; and
- (A) If at the time of the discharge notice the discharge destination is unknown or is not capable of meeting the needs of the resident, the facility administrator or their designee shall contact the local adult care home resident discharge team as defined in G.S. 131D-4.8(e) to assist with placement; and
- (B) The facility, at the direction of the administrator or their designee, shall inform the resident, the resident's legal representative, the individual identified upon admission to receive a copy of the discharge notice on behalf of the resident, and the responsible person of their right to request the Regional Long-Term Care Ombudsman to serve as a member of the adult care home resident discharge team; and
- (3) offering the following material to the resident, the resident's legal representative, or the facility where the resident is to be placed and providing this material as requested prior to or upon discharge of the resident:
- (A) a copy of the resident's most current FL-2 form required in Rule .0703 of this Subchapter;
- (B) a copy of the resident's most current assessment and care plan;
- (C) a list of referrals to licensed health professionals, including mental health;
- (D) a copy of the resident's current physician orders;
- (E) a list of the resident's current medications;
- (F) the resident's current medications; and
- (G) a record of the resident's vaccinations and TB screening;
- (4) providing written notice of the name, address and telephone number of the following, if not provided on the discharge notice required in Paragraph (c) of this Rule:
- (A) the regional long-term care ombudsman; and
- (B) Disability Rights North Carolina, the protection and advocacy agency established under federal law for persons with disabilities;
- (5) providing the resident, responsible person, or legal representative, and the individual identified upon admission who received a copy of the discharge notice on behalf of the resident with the discharge location as determined by the adult care home resident discharge team, if convened, at or before the discharge hearing, if the location is known to the facility.
- (h) If an appeal hearing is requested:
- (1) the facility administrator or their designee shall provide to the resident or legal representative or the resident and the responsible person, the Hearing Unit copies of all documents and records that the facility intends to use at the hearing at least five working days prior to the scheduled hearing; and
- (2) the facility administrator or their designee shall not discharge the resident before the final decision resulting from the appeal has been rendered, except in those cases of discharge specified in Paragraph (d) of this Rule.
- (i) If a discharge is initiated by the resident, the resident's legal representative, or responsible person, the administrator may require up to a 14-day written notice from the resident, the resident's legal representative, or responsible person which means the resident may be charged for the days of the required notice if notice is not given or if notice is given and the resident leaves before the end of the required notice period. Exceptions to the required notice are cases in which a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the facility. The facility's requirement for a notice from the resident, the resident's legal representative, or responsible person shall be established in the resident contract provided to the resident or responsible person upon admission.
- (j) The discharge requirements in this Rule do not apply when a resident is transferred to an acute inpatient facility for mental or physical health evaluation or treatment and the adult care facility's bed hold policy applies based on the expected return of the resident. If the facility administrator or their designee decides to discharge a resident who has been transferred to an acute inpatient facility and there has been no physician-documented level of care change for the resident, the discharge requirements in this Rule apply.

History Note: Authority G.S. 131D-2.1; 131D-2.16; 131D-4.5; 131D-4.8; 131D-21; 143B-165; Eff. January 1, 1977; Readopted Eff. October 31, 1977; Temporary Amendment Eff. July 1, 2003; Amended Eff. July 1, 2004; Readopted Eff. April 1, 2024.

10A NCAC 13F .1307 SPECIAL CARE UNIT

RESIDENT PROFILE AND CARE PLAN

In addition to the requirements in Rules .0801 and .0802 of this Subchapter, the facility shall:

- (1) Within 30 days of admission to the special care unit and quarterly thereafter, develop a written resident profile containing assessment data that describes the resident's behavioral patterns, self-help abilities, level of daily living skills, special management needs, physical abilities and disabilities, and degree of cognitive impairment.
- (2) Develop or revise the resident's care plan required in Rule .0802 of this Subchapter based on the resident profile and specify programming that involves environmental, social and health care strategies to help the resident attain or maintain the maximum level of functioning possible and compensate for lost abilities.

History Note: Authority G.S. 131D-2.16; 131D-4.5; 131D-4.6; 143B-165;
Temporary Adoption Eff. December 1, 1999;
Eff. July 1, 2000;
Readopted Eff. April 1, 2024.

10A NCAC 13G .0705 DISCHARGE OF RESIDENTS

(a) The discharge of a resident initiated by the facility shall be according to conditions and procedures specified in Paragraphs (a) through (j) of this Rule. The discharge of a resident initiated by the facility involves the termination of residency by the facility resulting in the resident's move to another location and the facility not holding the bed for the resident based on the facility's bed hold policy.

(b) The discharge of a resident initiated by the facility at the direction of the administrator or their designee shall be based on one of the following reasons:

- (1) the discharge is necessary to protect the welfare of the resident and the facility cannot meet the needs of the resident, as documented by the resident's physician, physician assistant, or nurse practitioner in the resident's record;
- (2) the health of the resident has improved sufficiently so that the resident is no longer in need of the services provided by the facility, as documented by the resident's physician, physician assistant, or nurse practitioner in the resident's record;
- (3) the safety of the resident or other individuals in the facility is endangered as determined by the facility at the direction of the administrator or their designee in consultation with the resident's physician, physician assistant, or nurse practitioner;
- (4) the health of the resident or other individuals in the facility is endangered as documented by a physician, physician assistant, or nurse practitioner in the resident's record; or

- (5) the resident has failed to pay the costs of services and accommodations by the payment due date according to the resident's contract after receiving written notice of warning of discharge for failure to pay.

(c) The facility administrator or their designee, shall assure the following requirements for written notice are met before discharging a resident:

- (1) The Adult Care Home Notice of Discharge with the Adult Care Home Hearing Request Form shall be completed and hand delivered, with receipt requested, to the resident on the same day the Adult Care Home Notice of Discharge is dated. These forms may be obtained at no cost from the Division of Health Benefits, on the internet website <https://policies.ncdhhs.gov/divisional/health-benefits-nc-medicaid/forms>. The Adult Care Home Notice of Discharge shall include the following:

- (A) the date of notice;
- (B) the date of transfer or discharge;
- (C) the reason for the notice;
- (D) the name of responsible person or contact person notified;
- (E) the planned discharge location;
- (F) the appeal rights;
- (G) the contact information for the long-term care ombudsman; and
- (H) the signature and date of the administrator.

- (2) A copy of the completed Adult Care Home Notice of Discharge and Adult Care Home Hearing Request Form shall be hand delivered, with receipt requested, or sent by certified mail to the resident's responsible person or legal representative and the individual identified upon admission to receive a discharge notice on behalf of the resident on the same day the Adult Care Home Notice of Discharge is dated. For the purposes of this Rule "responsible person" means a person chosen by the resident to act on their behalf to support the resident in decision-making; access to medical, social, or other personal information of the resident; manage financial matters; or receive notifications. The Adult Care Home Hearing Request Form shall include the following:

- (A) the name of the resident;
- (B) the name of the facility;
- (C) the date of transfer or discharge;
- (D) the date of scheduled transfer or discharge;
- (E) the selection of how the hearing is to be conducted;
- (F) the name of the person requesting the hearing; and

- (G) for the person requesting the hearing, their relationship to the resident, address, telephone number, their signature, and date of the request.
- (3) Provide the following material in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to the resident and the resident's legal representative and the individual identified upon admission to receive a copy the discharge notice on behalf of the resident:
 - (A) a copy of the resident's most current FL-2 form required in Rule .0703 of this Subchapter;
 - (B) a copy of the resident's current physician's orders, including medication order;
- (4) Failure to use and simultaneously provide the specific forms according to Subparagraphs (c)(1) and (c)(2) of this Rule shall invalidate the discharge.
- (5) A copy of the completed Adult Care Home Notice of Discharge, the Adult Care Home Hearing Request Form as completed by the facility administrator or their designee prior to giving to the resident and a copy of the receipt of hand delivery or the notification of certified mail delivery shall be maintained in the resident's record.
- (d) The notices of discharge and appeal rights as required in Paragraph (c) of this Rule shall be made by the facility administrator or their designee, at least 30 days before the resident is discharged except that notices may be made as soon as practicable when:
 - (1) the discharge is necessary to protect the welfare of the resident and the facility cannot meet the needs of the resident under Subparagraph (b)(1) of this Rule; or
 - (2) reasons under Subparagraphs (b)(3) and (b)(4) of this Rule exist.
- (e) The following shall be documented in the resident record and shall be made available upon request to potential discharge locations pursuant to the HIPAA Standards for Privacy of Individually Identifiable Health Information which is hereby incorporated by reference, including any amendments and subsequent editions, and can be found at no cost at <https://www.federalregister.gov/documents/2002/08/14/02-20554/standards-for-privacy-of-individually-identifiable-health-information>:
 - (1) The reason for discharge to include one or more of the following as applicable to the reasons under Paragraph (b) of this Rule:
 - (A) documentation by physician, physician assistant or nurse practitioner as required in Paragraph (b) of this Rule;
 - (B) the condition or circumstance that endangers the health or safety of the resident being discharged or endangers the health or safety of individuals in the facility, and the facility's taken to address the problem prior to pursuing discharge of the resident;
 - (C) written notices of warning of discharge for failure to pay the costs of services and accommodations; or
 - (D) the specific health need or condition of the resident that the facility determined could not be met in the facility pursuant to G.S. 131D-2.2(a)(4) and as disclosed in the resident contract signed upon the resident's admission to the facility; and
 - (2) any known involvement of law enforcement with the resident due to threatening behavior or violence toward self or others.
 - (f) The facility administrator or their designee shall document contacts with possible discharge locations and responses and make available this documentation, upon request, to the resident, legal representative, the individual identified upon admission to receive a discharge notice on behalf of the resident and the adult care home resident discharge team if convened. For the purposes of this Rule, "the individual identified upon admission to receive a discharge notice on behalf of the resident" may be the same person as the resident's legal representative or responsible person as identified in the resident's record.
 - (g) The facility administrator or their designee shall provide sufficient preparation and orientation to residents to ensure a safe and orderly discharge from the facility as evidenced by:
 - (1) explaining to the resident and responsible person or legal representative and the individual identified upon admission to receive a copy of the discharge notice on behalf of the resident why the discharge is necessary;
 - (2) informing the resident and responsible person or legal representative and the individual identified upon admission to receive a copy of the discharge notice on behalf of the resident about an appropriate discharge destination that is capable of meeting the needs of the resident; and
 - (A) If at the time of the discharge notice the discharge destination is unknown or is not capable of meeting the needs of the resident, the facility administrator or their designee, shall contact the local adult care home resident discharge team as defined in G.S. 131D-4.8(e) to assist with placement; and
 - (B) The facility, at the direction of the administrator or their designee, shall inform the resident, the resident's legal representative, the individual identified upon admission to receive a copy of the discharge notice on behalf

- of the resident, and the responsible person of their right to request the Regional Long-Term Care Ombudsman to serve as a member of the adult care home resident discharge team; and
- (3) offering the following material to the resident, the resident's legal representative, or the facility where the resident is to be placed and providing this material as requested prior to or upon discharge of the resident:
 - (A) a copy of the resident's most current FL-2 form required in Rule .0703 of this Subchapter;
 - (B) a copy of the resident's most current assessment and care plan;
 - (C) a list of referrals to licensed health professionals, including mental health;
 - (D) a copy of the resident's current physician orders;
 - (E) a list of the resident's current medications;
 - (F) the resident's current medications; and
 - (G) a record of the resident's vaccinations and TB screening;
- (4) providing written notice of the name, address and telephone number of the following, if not provided on the discharge notice required in Paragraph (c) of this Rule:
 - (A) the regional long-term care ombudsman; and
 - (B) Disability Rights North Carolina, the protection and advocacy agency established under federal law for persons with disabilities.
- (5) providing the resident, responsible person, or legal representative, and the individual identified upon admission who received a copy of the discharge notice on behalf of the resident with the discharge location as determined by the adult care home resident discharge team, if convened, at or before the discharge hearing, if the location is known to the facility.
- (h) If an appeal hearing is requested:
 - (1) the facility administrator or their designee shall provide to the resident or legal representative or the resident and the responsible person, the Hearing Unit copies of all documents and records that the facility intends to use at the hearing at least five working days prior to the scheduled hearing; and
 - (2) the facility administrator or their designee shall not discharge the resident before the final decision resulting from the appeal has been

rendered, except in those cases of discharge specified in Paragraph (d) of this Rule.

- (i) If a discharge is initiated by the resident, the resident's legal representative, or responsible person, the administrator may require up to a 14-day written notice from the resident, the resident's legal representative, or responsible person which means the resident may be charged for the days of the required notice if notice is not given or if notice is given and the resident leaves before the end of the required notice period. Exceptions to the required notice are cases in which a delay in discharge or transfer would jeopardize the health or safety of the resident or others in the facility. The facility's requirement for a notice from the resident, the resident's legal representative, or responsible person shall be established in the resident contract provided to the resident or responsible person upon admission.
- (j) The discharge requirements in this Rule do not apply when a resident is transferred to an acute inpatient facility for mental or physical health evaluation or treatment and the adult care facility's bed hold policy applies based on the expected return of the resident. If the facility administrator or their designee decides to discharge a resident who has been transferred to an acute inpatient facility and there has been no physician-documented level of care change for the resident, the discharge requirements in this Rule apply.

History Note: Authority G.S. 131D-2.1; 131D-2.16; 131D-4.8; 131D-4.5; 131D-21; 143B-165; Temporary Adoption Eff. January 1, 2000; December 1, 1999; Eff. April 1, 2001; Temporary Amendment Eff. July 1, 2003; Amended Eff. July 1, 2004; Readopted Eff. April 1, 2024.

10A NCAC 13G .1301 USE OF PHYSICAL RESTRAINTS AND ALTERNATIVES

(a) A family care home shall assure that a physical restraint, any physical or mechanical device attached to or adjacent to the resident's body that the resident cannot remove easily and that restricts freedom of movement or normal access to one's body, shall be:

- (1) used only in those circumstances in which the resident has medical symptoms for which the resident's physician or physician extender has determined warrant the use of restraints and not for , discipline or convenience purposes;
- (2) used only with a written order from a physician or physician extender except in emergencies where the health or safety of the resident is threatened, according to Paragraph (d) of this Rule;
- (3) the least restrictive restraint that would provide a safe environment for the resident and prevent physical injury;
- (4) used only after alternatives that would provide a safe environment for the resident to prevent physical injury and prevent a potential decline in the resident's functioning have been tried and documented by the administrator or their

designee in the resident's record as being unsuccessful.

- (5) used only after an assessment and care planning process has been completed, except in emergencies where the health or safety of the resident is threatened, according to Paragraph (c) of this Rule;
- (6) applied correctly according to the manufacturer's instructions and the physician's or physician extenders' order; and
- (7) used in conjunction with alternatives in an effort to reduce restraint use. For the purpose of this Rule, "physician extender" means a licensed physician assistant or licensed nurse practitioner.

Note: Bed rails are restraints when used to keep a resident from voluntarily getting out of bed as opposed to enhancing mobility of the resident while in bed. Examples of restraint alternatives are: providing restorative care to enhance abilities to stand safely and walk, providing a device that monitors attempts to rise from chair or bed, placing the bed lower to the floor, providing frequent staff monitoring with periodic assistance in toileting and ambulation and offering fluids, providing activities, controlling pain, providing an environment with minimal noise and confusion, and providing supportive devices such as wedge cushions.

(b) The facility shall obtain written consent from the resident, the resident's responsible person, or legal representative for the resident to be restrained based on an order from the resident's physician or physician extender. The facility shall inform the resident, the resident's responsible person or legal representative of the reason for the request, the benefits of restraint use, and the negative outcomes and alternatives to restraint use. The resident or the resident's legal representative may accept or refuse restraints based on the information provided. Documentation shall consist of a statement signed by the resident or the resident's legal representative indicating the signer has been informed, the signer's acceptance or refusal of restraint use and, if accepted, the type of restraint to be used and the medical indicators for restraint use.

Note: Potential negative outcomes of restraint use include incontinence, decreased range of motion, decreased ability to ambulate, increased risk of pressure ulcers, symptoms of withdrawal or depression, and reduced social contact.

(c) In addition to the requirements in Rule .0801, .0802 and .0903 of this Subchapter regarding assessments and care planning, the resident assessment and care planning prior to application of restraints as required in Subparagraph (a)(5) of this Rule shall meet the following requirements:

- (1) The assessment and care planning shall be implemented through a team process with the team consisting of at least a supervisor or personal care aide, a registered nurse, the resident and the resident's responsible person or legal representative. If the resident or resident's responsible person or legal representative is unable to participate, there shall be documentation in the resident's record

that they were notified and declined the invitation or were unable to attend.

- (2) The assessment shall include consideration of the following:

- (A) medical symptoms that warrant the use of a restraint;
- (B) how the medical symptoms affect the resident;
- (C) when the medical symptoms were first observed;
- (D) how often the symptoms occur;
- (E) alternatives that have been provided and the resident's response; and
- (F) the least restrictive type of physical restraint that would provide safety.

- (3) The care plan shall include the following:

- (A) alternatives and how the alternatives will be used prior to restraint use and in an effort to reduce restraint time once the resident is restrained;
- (B) the type of restraint to be used; and
- (C) care to be provided to the resident during the time the resident is restrained.

- (d) The following applies to the restraint order as required in Subparagraph (a)(2) of this Rule:

- (1) The order shall indicate:

- (A) the medical need for the restraint based on the assessment and care plan;
- (B) the type of restraint to be used;
- (C) the period of time the restraint is to be used; and
- (D) the time intervals the restraint is to be checked and released, but no longer than every 30 minutes for checks and no longer than two hours for releases.

- (2) If the order is obtained from a physician other than the resident's physician, the facility shall notify the resident's physician or physician extender of the order within seven days.

- (3) The restraint order shall be updated by the resident's physician or physician extender at least every three months following the initial order.

- (4) If the resident's physician changes, the physician or physician extender who is to attend the resident shall update and sign the existing order.

- (5) In an emergency, where the health or safety of the resident is threatened, the administrator or their designee shall make the determination relative to the need for a restraint and its type and duration of use until a physician or physician extender is contacted. Contact with a physician or physician extender shall be made within 24 hours and documented in the resident's record. For the purpose of this Rule, an "emergency" means a situation where there

is a certain risk of physical injury or death to a resident.

- (6) The restraint order shall be kept in the resident's record.

(e) All instances of the use of physical restraints and alternatives shall be documented by the facility in the resident's record and include the following:

- (1) restraint alternatives that were provided and the resident's response;
- (2) type of restraint that was used;
- (3) medical symptoms warranting restraint use;
- (4) the time the restraint was applied and the duration of restraint use;
- (5) care that was provided to the resident during restraint use; and
- (6) behavior of the resident during restraint use.

(f) Physical restraints shall be applied only by staff who have received training on the use of alternatives to physical restraint use and on the care of residents who are physically restrained according to Rule .0506 of this Subchapter and have been validated on the care of residents who are physically restrained and the use of care practices as alternatives to restraints according to Rule .0504 of this Subchapter.

*History Note: Authority G.S. 131D-2.16; 143B-165;
Temporary Adoption Eff. July 1, 2004;
Temporary Adoption Expired March 12, 2005;
Eff. June 1, 2005;
Readopted Eff. April 1, 2024.*

TITLE 12 - DEPARTMENT OF JUSTICE

12 NCAC 09B .0209 CRIMINAL JUSTICE INSTRUCTOR TRAINING

(a) The Instructor Training course required for General Instructor certification shall consist of a minimum of 38 hours of classroom instruction, plus the time required to conduct practical exercises, student presentations, and post testing. The Instructor Training course shall be presented during a period of no more than 15 business days. If the Governor declares a State of Emergency pursuant to G.S. 166A-19.3(19), the Director of the Criminal Justice Standards Division shall allow additional breaks in a specific course delivery when the Director determines that doing so is necessary based on consideration of the following factors:

- (1) whether instruction has begun in the course or whether course initiation may be postponed;
- (2) the risk of harm to students that may be caused by continuation of the course;
- (3) whether those enrolled in the course have been or will likely be called into action to help address the State of Emergency;
- (4) the specific need for the waiver; and
- (5) the degree of benefit to the public in allowing a break in instruction.

Notice of waivers granted pursuant to the Section shall be posted on the CJETS website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/>. The waivers

granted pursuant to this Section shall only apply to courses that began during the effective period of the State of Emergency.

(b) Each Instructor Training course shall include the following identified topic areas and minimum instructional hours for each area:

- | | | |
|------|--|---------|
| (1) | Orientation and Pre-Test | 2 Hour |
| (2) | Instructional Systems Design (ISD) | 3 Hours |
| (3) | Law Enforcement Instructor Liabilities and Legal Responsibilities | 2 Hours |
| (4) | Criminal Justice Instructional Leadership | 4 Hours |
| (5) | Lesson Plan Preparation: Professional Resources | 2 Hours |
| (6) | Lesson Plan Development and Formatting | 3 Hours |
| (7) | Adult Learning | 2 Hours |
| (8) | Instructional Styles and Platform Skills | 5 Hours |
| (9) | Classroom Management | 3 Hours |
| (10) | Active Learning: Demonstration and Practical Exercises | 3 Hours |
| (11) | The Evaluation Process of Learning | 3 Hours |
| (12) | Audio Visual Aids | 5 Hours |
| (13) | Course Closing and Post-test | 1 Hour |
| (14) | Completion of tasks associated with practical exercises, student presentations, and post testing. The Instructor Training School Director shall determine the number of hours required to complete this portion of the curriculum. This decision shall be based on the number of enrolled students, available facilities, and number of instructors. | |

(c) The most current version of the "Instructor Training" manual published by the North Carolina Justice Academy shall be the curriculum for instructor training courses. Copies of this publication may be inspected at the agency:

Criminal Justice Standards Division
North Carolina Department of Justice
1700 Tryon Park Drive
Post Office Drawer 149
Raleigh, North Carolina 27602

and may be purchased by cash, money order, or credit card, from the Academy bookstore at the following address:

North Carolina Justice Academy
Post Office Drawer 99
Salemberg, North Carolina 28385

*History Note: Authority G.S. 17C-6;
Eff. January 1, 1981;
Amended Eff. July 1, 2018; April 1, 2018; January 1, 2018;
January 1, 2015; December 1, 2009; August 1, 2005; November 1, 1998; January 1, 1995; March 1, 1990; July 1, 1989; January 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;
Amended Eff. December 1, 2023; April 1, 2022; July 1, 2021;
January 1, 2021.*

**12 NCAC 09B .0403 EVALUATION FOR TRAINING
WAIVER**

(a) The Standards Division staff shall evaluate each law enforcement officer's training and experience to determine if equivalent training has been completed as specified in Rule .0402(a) of this Section. Applicants for certification with prior law enforcement experience shall have been employed in a full-time, sworn law enforcement position in order to be considered for training evaluation under this Rule. Applicants for certification with a combination of full-time and part-time experience shall be evaluated on the basis of the full-time experience only. The determination of full time or part time is determined by the employing agency who submits the applicant's certification documents. For the purposes of this Rule, equivalent training is the topics of instruction successfully completed at a federal, military or out of state law enforcement training academy. The following criteria shall be used by Standards Division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements:

- (1) Persons having completed a Commission-accredited Basic Law Enforcement Training Course and not having been duly appointed and sworn as a law enforcement officer within one year of completion of the course shall complete a subsequent Commission-accredited Basic Law Enforcement Training Course, as prescribed in Rule .0405(a) of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to obtaining probationary law enforcement certification, unless the Director determines that a delay in applying for certification was not due to inaction or fault on the part of the applicant, in which case the Director shall accept a Commission-accredited Basic Law Enforcement Training Course that is over one year old. The appointing agency shall request in writing the extension of the one year period, which shall not exceed 30 days from the first year anniversary of the passing of the State Comprehensive Examination;
- (2) Out-of-state transferees shall be evaluated to determine the amount and quality of their training and experience. Out-of-state transferees shall not have a break in service exceeding three years. At a minimum, out-of-state transferees shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course accredited by the transferring state. An individual's attendance at his or her basic law enforcement class shall not count towards the two years' full-time sworn law enforcement experience. Prior to employment as a certified law enforcement officer, out-of-state transferees shall complete with a passing score the employing agency's in-service firearms training and qualification

program as prescribed in 12 NCAC 09E .0106. In addition, out-of-state transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;

- (3) Persons who have completed a 369-hour Commission-accredited Basic Law Enforcement Training Course under guidelines administered beginning October 1, 1984, have been separated from a sworn position for over one year but less than three years, and who have had a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period. Prior to employment as a certified law enforcement officer, these persons shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106;
- (4) Persons who have completed a 396-hour Commission-accredited Basic Law Enforcement Training Course under guidelines administered beginning October 1, 1984, have been separated from a sworn position more than one year but less than five years and who have a minimum of two years' experience as a full-time, sworn law enforcement officer in North Carolina, who have not committed, as defined in 12 NCAC 09A .0103(5), or been convicted of a disqualifying criminal offense as listed in Rule .0111(a) of this Subchapter, and who have successfully completed the mandatory in-service training requirements pursuant to 12 NCAC 09E .0105 or 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification, during each year the person was separated from a sworn position prior to employment as a certified law enforcement officer shall complete the topic areas within the following time frames:
 - (A) Prior to employment as a certified law enforcement officer, the person shall complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106;
 - (B) Prior to employment as a certified law enforcement officer, the person shall achieve a passing score on the

practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics set forth in Rule .0205(b)(5) of this Subchapter. The person shall also successfully complete the Police Officer Physical Abilities Test. The practical skills testing and the Police Officer Physical Abilities Test may be completed either in a Commission-accredited Basic Law Enforcement Training Course or under the instruction of a Commission-certified instructor for that particular skill. The person shall also meet the requirements per Rule .0101 of this Subchapter; and

- (C) Within 12 months of being issued probationary certification, the person shall complete the remaining topics in the legal unit of instruction in the Commission-accredited Basic Law Enforcement Training Course as set forth in Rule .0205(b)(1) of this Subchapter. The person shall achieve a passing score on the appropriate topic tests for each course. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training Course or under the instruction of a Commission-certified instructor for that particular topic of instruction.

An individual's attendance at his or her basic law enforcement class shall not count towards the two years' full-time sworn law enforcement experience. Persons who meet the criteria of this Part shall be processed as a probationary certification and shall serve a one-year probationary period as defined in 12 NCAC 09C .0303;

- (5) Persons who have been separated from a sworn position for over one year but less than three years who have had less than two years' experience as a full-time, sworn law enforcement officer in North Carolina shall complete a Commission-accredited Basic Law Enforcement Training Course, as prescribed in Rule .0405(a) of this Section, and achieve a passing score on the State Comprehensive Examination;
- (6) Persons who have been separated from a sworn position for over three years who do not meet the criteria of Subparagraph (4) of this Paragraph shall complete a Commission-accredited Basic Law Enforcement Training Course, as prescribed in Rule .0405(a) of this

Section, regardless of prior training or experience, and shall achieve a passing score on the State Comprehensive Examination;

- (7) Persons who have been separated from a sworn law enforcement position during their probationary period after having completed a Commission-accredited Basic Law Enforcement Training Course and who have been separated from a sworn law enforcement position for more than one year shall complete a subsequent Commission-accredited Basic Law Enforcement Training Course and shall achieve a passing score on the State Comprehensive Examination;
- (8) Upon reappointment to the same agency or appointment to another agency, persons who have been separated from a sworn law enforcement position during their probationary period after having completed a Commission-accredited Basic Law Enforcement Training Course shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete Commission requirements, but shall not be required to complete an additional Commission-accredited Basic Law Enforcement Training Course;
- (9) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973, and continuing through September 30, 1978, and who have been separated from a sworn law enforcement position for over one year but less than two years shall complete the Legal Unit and the topical area entitled "Law Enforcement Driver Training" of a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) and .0205(b)(5)(C) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;
- (10) Persons who have completed a minimum 160-hour basic law enforcement training program accredited by the North Carolina Criminal Justice Training and Standards Council under guidelines administered beginning on July 1, 1973, and continuing through September 30, 1978, and have been separated from a sworn law enforcement position for two or more years shall complete a Commission-accredited basic training program, as prescribed in Rule .0405 of this Section, regardless of training and experience,

- and shall achieve a passing score on the State Comprehensive Examination;
- (11) Persons who have completed a minimum 240-hour Commission-accredited Basic Law Enforcement Training Course under guidelines administered beginning October 1, 1978, and continuing through September 30, 1984, and have been separated from a sworn position over one year but less than three years shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within the 12 month probationary period;
 - (12) Persons previously holding law enforcement certification in accordance with G.S. 17C-10(a) who have been separated from a sworn law enforcement position for over one year and who have not previously completed a minimum basic training program accredited by either the North Carolina Criminal Justice Training and Standards Council or the Commission shall complete a Commission-accredited Basic Law Enforcement Training Course, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;
 - (13) Individuals seeking certification with the Commission who have performed duties for the Federal Government as a Criminal Investigator (GS 1811) as defined in the Office of Personnel Management General Schedule, Qualification Standards (<https://www.opm.gov/policy-data-oversight/classification-qualifications/general-schedule-qualification-standards/1800/criminal-investigation-series-1811/>), who have not had a break in service exceeding three years, shall be evaluated to determine the amount and quality of their training and experience. For the purposes of this Rule, equivalent training is the topics of instruction successfully completed at a federal, military, or out of state law enforcement training academy. The following criteria shall be used by Standards Division staff in Division staff in evaluating a law enforcement officer's training and experience to determine eligibility for a waiver of training requirements. At a minimum, individuals shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, these individuals shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. These individuals shall complete the Basic Law Enforcement Training topics pursuant to 12 NCAC 09B .0205(b)(1)(A), (b)(1)(C), (b)(1)(D), (b)(1)(F), (b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), (b)(6)(C), and shall achieve a passing score on the State Comprehensive Examination pursuant to 12 NCAC 09B .0406 within the 12 month probationary period. Individuals who submit to the Commission documentation of completion of training equivalent to the topics set forth in 12 NCAC 09B .0205(b)(2)(A), (b)(2)(C), (b)(2)(E), (b)(2)(F), (b)(2)(I), (b)(3)(B), (b)(3)(D), (b)(4)(E), (b)(5)(A), (b)(6)(A), (b)(6)(B), and (b)(6)(C) shall not be required to complete those topics;
 - (14) Federal law enforcement transferees other than those listed in Subparagraph (a)(13) of this Rule who have not had a break in service exceeding three years shall be evaluated to determine the amount and quality of their training and experience. At a minimum, federal law enforcement officers shall have two years' full-time, sworn law enforcement experience and have completed a basic law enforcement training course as required by their appointing federal agency. Prior to employment as a certified law enforcement officer, transferees shall complete with a passing score the employing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106. At a minimum, transferees shall complete the Legal Unit in a Commission-accredited Basic Law Enforcement Training Course as prescribed in Rule .0205(b)(1) of this Subchapter and shall achieve a passing score on the State Comprehensive Examination within 12 month probationary period;
 - (15) Applicants with part-time experience who have a break in service in excess of one year shall complete a Commission-accredited Basic Law Enforcement Training Course, as prescribed in Rule .0405 of this Section, and shall achieve a passing score on the State Comprehensive Examination prior to employment;
 - (16) Applicants who hold or previously held certification issued by the North Carolina Sheriffs' Education and Training Standards Commission (Sheriffs' Commission) shall be subject to evaluation based on the applicant's active or inactive certification status with the Sheriffs' Commission and the standards

contained in Parts (A) through (D) of this Subparagraph. A deputy sheriff certified with the Sheriffs' Commission shall be considered active if he or she has been employed in a full-time, sworn law enforcement position during the previous 12 months. A deputy sheriff certified with the Sheriffs' Commission shall be considered inactive if he or she has not been employed in a full-time, sworn law enforcement position during the previous 12 months.

(A) The Standards Division shall issue certification to an applicant holding active general certification with the Sheriffs' Commission provided that the applicant:

- (i) Does not have a break in service of greater than 12 months;
- (ii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005 for each year certification was held; and
- (iii) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training State Comprehensive Examination.

(B) The Standards Division shall issue certification to an applicant holding inactive certification with the Sheriffs' Commission provided that the applicant:

- (i) Holds inactive probationary or general certification with the Sheriffs' Commission;
- (ii) Has served a minimum of 24 months of full time sworn service or does not have a break in service of greater than 12 months;
- (iii) Has completed the mandatory in-service training requirements pursuant to 12 NCAC 10B .2005, with the exception of Firearms Training and Requalification; and
- (iv) Held active status with the Sheriffs' Commission within 12 months of the date the applicant achieved a passing score on the Basic Law Enforcement Training State

Comprehensive Examination.

(C) An applicant awarded certification with the Sheriffs' Commission by means of the Sheriffs' Standards BLET Challenge as prescribed in 12 NCAC 10B .0505(6)(b) shall meet the following requirements in order to obtain probationary certification from the Commission:

- (i) Have a minimum of 24 months of sworn, full-time law enforcement service;
- (ii) Not have a break in service of greater than 12 months; and
- (iii) Have completed all mandatory in-service requirements pursuant to 12 NCAC 10B .2005 during the previous two years.

(D) An applicant who is a criminal justice officer, as defined in G.S. 17C-2(3), and who is elected Sheriff shall be reinstated by the Commission upon the conclusion of the period of service as Sheriff and in conformance with 12 NCAC 09C .0303;

(17) Alcohol law enforcement agents who received basic alcohol law enforcement training prior to November 1, 1993, and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service;

(18) Wildlife enforcement officers who separate from employment with the Wildlife Enforcement Division and transfer to another law enforcement agency in a sworn capacity shall be subject to evaluation of their prior training and experience on an individual basis. The Standards Division staff shall determine the amount of training required of these applicants, based upon the type of certification held by the applicant and the length of any break in the applicant's sworn, full-time service;

(19) Active duty, guard, or reserve military members failing to complete all of the required annual in-service training topics, as defined in 12 NCAC 09E .0105 of this Chapter, due to military obligations are subject to the following training requirements as a condition for return to active criminal justice status. The

agency head shall verify the person's completion of the appropriate training by submitting a statement, on Form F-9C, Return to Duty Request form. This form is located on the agency's website: <https://ncdoj.gov/law-enforcement-training/criminal-justice/forms-and-publications/>;

(A) Active duty members of the armed forces eligible for probationary certification pursuant to this Paragraph and active duty, guard, or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for up to a period of three years shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete with a passing score the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E prior to their return to active criminal justice status;

(B) Active duty, guard, or reserve military members holding probationary or general certification as a criminal justice officer who fail to complete all of the required annual in-service training topics due to military obligations for a period greater than three years shall complete the following topic areas within the following time frames:

(i) The person shall complete the previous year's required in-service training topics, the current year's required in-service training topics, and complete the appointing agency's in-service firearms training and qualification program as prescribed in 12 NCAC 09E .0106 prior to their return to active criminal justice status;

(ii) The person shall achieve a passing score on the practical skills testing for the First Responder, Law Enforcement Driver Training, and Subject Control Arrest Techniques topics enumerated in Rule .0205(b)(5) of this Subchapter prior to returning

to active criminal justice status. This practical skills testing may be completed either in a Commission-accredited Basic Law Enforcement Training Course or under the instruction of a Commission-certified instructor for that particular skill. The person shall complete one physical fitness assessment in lieu of the Fitness Assessment and Testing topic. The person shall also be examined by a physician per Rule .0104(b) of this Subchapter; and

(iii) The person shall complete required topics in the legal unit of instruction in the Commission-accredited Basic Law Enforcement Training Course as set forth in Rule .0205(b)(1) of this Subchapter. The required topics include Motor Vehicle Law; Juvenile Laws and Procedures; Arrest, Search and Seizure/Constitutional Law; and ABC Laws and Procedures. The person shall achieve a passing score on the topic tests for each course. The person may undertake each of these legal unit topics of instruction either in a Commission-accredited Basic Law Enforcement Training Course or under the instruction of a Commission-certified instructor for that particular topic of instruction. The person shall complete each of the enumerated topics of instruction within 12 months from the beginning of his or her return to active criminal justice status; and

(20) An active duty member of the armed forces who completes the Commission-accredited Basic Law Enforcement Training Course in its entirety as prescribed in Rule .0405 of this Subchapter, annually completes the mandatory in-service training topics as prescribed in 12 NCAC 09E .0105, with the exception of the Firearms and Qualification testing requirements contained in 12 NCAC 09E

.0105(a)(3) for each year subsequent to the completion of the Commission-accredited Basic Law Enforcement Training Course, and achieves a passing score on the State Comprehensive Examination as prescribed in Rule .0406 of this Subchapter within five years of separating from active duty status shall be eligible for probationary certification as prescribed in 12 NCAC 09C .0303 for a period of 12 months from the date he or she separates from active duty status in the armed forces. All mandatory in-service training topics as prescribed in 12 NCAC 09E .0105 shall be completed by the individual prior to receiving probationary certification.

(b) If an evaluation, conducted by Standards Division staff, of the applicant's prior training and experience determines that required attendance in the entire Commission-accredited Basic Law Enforcement Training Course is unnecessary, the Director of the Standards Division shall determine the amount of training the individual shall complete during his or her probationary period.

(c) The following criteria shall be used by Standards Division staff in evaluating prior training and experience of local confinement personnel to determine eligibility for a waiver of training requirements:

- (1) Persons who hold probationary, general, or grandfather certification as local confinement personnel and separate after having completed a Commission-accredited basic training course as prescribed in Rule .0224 or .0225 of this Subchapter and have been separated for one year or more shall complete a subsequent Commission-accredited basic training course and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Subchapter;
- (2) Upon reappointment to the same agency or appointment to another agency, persons who have been separated from a local confinement personnel position during their probationary period after having completed a Commission-accredited basic training program course shall be charged with the cumulative amount of time served during his initial or subsequent appointments and allowed the remainder of the probationary period to complete Commission requirements, but shall not be required to complete an additional Commission-accredited basic training course.
- (3) Applicants who hold or previously held "Detention Officer Certification" issued by the North Carolina Sheriffs' Education and Training Standards Commission shall be subject to evaluation of their prior training and experience on an individual basis. No additional training shall be required where the applicant obtained certification and

successfully completed the required 120 hour training course and has not had a break in service in excess of one year; and

- (4) Persons holding certification for local confinement facilities who transfer to a district or county confinement facility shall complete the course for district and county confinement facility personnel, as adopted by reference in Rule .0224 of this Subchapter, and achieve a passing score on the State Comprehensive Examination during the probationary period as prescribed in Rule .0401(a) of this Subchapter.

History Note: Authority G.S. 17C-6; 17C-10; 17C-10.1; 93B-15.1;

Eff. January 1, 1981;

Amended Eff. October 1, 2017; January 1, 2017; October 1, 2016; November 1, 2014; August 1, 2000; November 1, 1993; March 1, 1992; July 1, 1989; February 1, 1987;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. December 1, 2023; July 1, 2021.

12 NCAC 09B .0501 CERTIFICATION OF SCHOOL DIRECTORS

(a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation of a Commission-certified criminal justice training course shall be and continuously remain certified by the Commission as a school director.

(b) To qualify for initial certification as a School Director, an applicant shall:

- (1) hold current General Instructor certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;
- (2) furnish documentary evidence to the Standards Division of high school, college, or university graduation as outlined in 12 NCAC 09B .0106.
- (3) attend or must have attended the most current offering of the School Director's orientation as developed and presented by the Commission staff, otherwise an individual orientation with a staff member shall be required; and
- (4) submit a Form F-10 School Director/Qualified Assistant Application to the Commission for the issuance of such certification. This application shall be executed by the executive officer of the institution or agency currently certified, or which may be seeking certification, by the Commission to make presentation of certified training programs and for whom the applicant will be the designated School Director. The F-10 School Director/Qualified Assistant Application shall contain:
 - (A) the name of the appointing institution or agency;

- (B) the name, date of birth, social security number (last 4 numbers), phone number, email, instructor certification number, location, and the date the applicant completed orientation training;
- (C) the applicant's educational background, specifically, the dates of attendance, the institution attended, and the degree or diploma attained from each institution;
- (D) the applicant's criminal justice experience, specifically, the agency for which the applicant worked, the applicant's duties in each position, and the dates of employment. The applicant shall have acquired four years of practical experience as a criminal justice officer or as an administrator or specialist in a field directly related to the criminal justice system. At least one year of the required four years experience must have been while actively participating in criminal justice training as a Commission certified instructor;
- (E) the signature of the applicant certifying the accuracy of the contents of the application, and
- (F) the signature of the appointing institution's executive officer signifying recommendation of an applicant to be a School Director; or
- (G) the signature of the School Director signifying recommendation of an applicant to be a Qualified Assistant.

(c) In addition to the requirements identified in Paragraph (b) of this Rule, to qualify for certification as a School Director in the presentation of the Criminal Justice Instructor Training Course, an applicant shall document completion of the Instructor Training Orientation presented by the North Carolina Justice Academy on delivery of instructor training course and student evaluations.

History Note: Authority G.S. 17C-6;

Eff. January 1, 1985;

Amended Eff. February 1, 2016; November 1, 2015; July 1, 2004;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. December 1, 2023.

12 NCAC 09B .0502 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

(a) The term of certification as a School Director is two years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. Upon application, the certification may subsequently be renewed by the Commission for three-year periods. The application for

renewal, F-10 School Director/Qualified Assistant Application, shall meet the requirements as outlined in 12 NCAC 09B .0501(4).

(b) To retain certification as a School Director, the School Director shall:

- (1) Participate in annual training conducted by Commission staff. This annual training shall be delivered in a conference, classroom, or virtual format and shall contain information relevant to the responsibilities of a School Director, as outlined in 12 NCAC 09B .0202(a);
- (2) Submit a renewal application executed by the executive officer of the institution or agency currently certified by the Commission to make presentation of certified training programs and for whom the applicant will be the designated School Director; and
- (3) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission.

(c) The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just cause means accident, illness, emergency, or other circumstances, which precluded the School Director from attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required to complete a make up training session prior to the end of the calendar year in which the training requirement applies.

History Note: Authority G.S. 17C-6;

Eff. January 1, 1985;

Amended Eff. February 1, 2016; May 1, 2014; April 1, 2009;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019;

Amended Eff. December 1, 2023.

12 NCAC 09G .0405 CERTIFICATION OF SCHOOL DIRECTORS

(a) Any person designated to act as, or who performs the duties of, a School Director in the delivery or presentation of a Commission-certified corrections training course shall be and continuously remain certified by the Commission as a School Director.

(b) To qualify for initial certification as a corrections School Director, an applicant shall:

- (1) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission;
- (2) Furnish documentary evidence to the Standards Division of high school, college, or university graduation as outlined in 12 NCAC 09G .0204.
- (3) attend or have attended the most current offering of the School Director's orientation as developed and presented by the Commission

staff, otherwise an individual orientation with a staff member shall be required;

- (4) submit a completed Form F-10 School Director/Qualified Assistant Application to the Commission for the issuance of such certification. This request shall be executed by the executive officer of the Office of Staff Development and Training of the North Carolina Department of Adult Correction, and shall contain the requirements as set forth in 12 NCAC 09B .0501(4).

(c) In addition to the requirements identified in Subparagraph (b) of this Rule, to qualify for certification as a School Director in the presentation of the "Criminal Justice Instructor Training Course" an applicant shall document successful completion of Instructor Training Orientation presented by the North Carolina Justice Academy on delivery of the instructor training course and trainee evaluation.

History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001; Temporary Adoption Expired December 20, 2001; Temporary Adoption Eff. April 15, 2003; Eff. April 1, 2004; Amended Eff. February 1, 2016; January 1, 2006; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. December 1, 2023.

12 NCAC 09G .0406 TERMS AND CONDITIONS OF SCHOOL DIRECTOR CERTIFICATION

(a) The term of certification as a School Director is two years from the date the Commission issues the certification, unless earlier terminated by action of the Commission. Upon application the certification may subsequently be renewed by the Commission for two-year periods. The application for renewal, F-10 School Director/Qualified Assistant Application, shall meet the requirements as outlined in 12 NCAC 09B .0501(4).

(b) To retain certification as School Director, the School Director shall:

- (1) Participate in annual training conducted by Commission staff. This annual training shall be delivered in a conference, classroom, or virtual format and shall contain information relevant to the responsibilities of a School Director, as outlined in 12 NCAC 09G .0408;
- (2) Submit a renewal application executed by the executive officer of the institution or agency currently certified by the Commission to make presentation of certified training programs and for whom the applicant will be the designated School Director.
- (3) Hold current General Instructor Certification as issued by the North Carolina Criminal Justice Education and Training Standards Commission.

(c) The Director may grant a waiver of attendance at the annual training for just cause. For purposes of this Rule, just cause means accident, illness, emergency, or other circumstances,

which precluded the School Director from attending the scheduled annual training. School Directors who receive a waiver of attendance shall be required to complete a make up training session prior to the end of the calendar year in which the training requirement applies.

History Note: Authority G.S. 17C-6; Temporary Adoption Eff. January 1, 2001; Temporary Adoption Expired December 20, 2001; Temporary Adoption Eff. April 15, 2003; Eff. April 1, 2004; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. May 25, 2019; Amended Eff. December 1, 2023.

12 NCAC 10B .0603 EVALUATION FOR TRAINING WAIVER

(a) Applicants for detention officer certification with prior detention or correctional officer experience who have been employed and certified as a detention or correctional officer may seek a training waiver evaluation pursuant to this Section.

(b) The Division shall use the following to evaluate a detention officer's training and experience to grant a training waiver:

- (1) Persons who separated from a detention officer position during the probationary period after completion of a commission-certified Detention Officer Certification Course and who have been separated from a detention officer position for more than one year shall complete a subsequent commission-certified Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as set forth in Rule .0602(a) of this Section.
- (2) Persons who separated from a detention officer position during their probationary period after completion of a commission-certified Detention Officer Certification Course and who have been separated from a detention officer position for one year or less shall serve the remainder of the initial probationary period in accordance with G.S. 17E-7(b), but need not complete an additional training program.
- (3) Persons who separated from a detention officer position during the probationary period without completion of a commission-certified Detention Officer Certification Course, or whose certification was suspended pursuant to Rule .0204(b)(1) of this Subchapter and who have remained separated or suspended for over one year shall complete a commission-certified Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination, and shall be allowed a 12 month probationary period as prescribed in Rule .0602(a) of this Section.

- (4) Persons holding General Justice Officer Certification as a detention officer pursuant to Rule .0404 of this Subchapter who completed a commission-certified Detention Officer Certification Course and who separated from a detention officer position for more than one year shall complete a subsequent commission-certified Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in Rule .0602(a) of this Section.
- (5) Persons holding Grandfather Detention Officer Certification pursuant to G.S. 17E-7(a), who separate from a detention officer position and remain separated from a detention officer position for more than one year shall complete a commission-certified Detention Officer Certification Course in its entirety and pass the State Comprehensive Examination within the 12 month probationary period as prescribed in Rule .0602(a) of this Section.
- (6) Persons transferring to a sheriff's office from another law enforcement agency who hold a detention officer certification issued by the North Carolina Criminal Justice Education and Training Standards Commission are subject to evaluation of their prior training and experience on an individual basis. The Division shall review the training received against the training required by Rule .0601 of this Section and determine whether that training is comparable to the requirements set out in Rule .0601 based upon topics covered and determine what additional training, if any, is required under Rule .0601.

- (c) The Division shall grant a training waiver to individuals that:
- (1) hold general certification as a correctional officer from the North Carolina Criminal Justice Education and Training Standards Commission under 12 NCAC 09G .0304;
 - (2) completed training as a correctional officer between January 1, 1981 and August 1, 2002;
 - (3) are an applicant for justice officer certification as a detention officer through a sheriff's office or a district confinement facility; and
 - (4) do not have a break in service exceeding one year from the time of last employment as a correctional officer to the time of being appointed as a detention officer.

Applicants that are granted a training waiver under this section shall serve a 12-month probationary period as set forth in Rule .0602(a) of this Section. During this probationary period, they must take and successfully complete the State Comprehensive Examination in its entirety as set forth in Rule .0606 of this Section after completing the following topic areas in a commission-certified Detention Officer Certification Course:

Orientation	3 hours
-------------	---------

Legal Aspects of Management & Supervision	14 hours
Medical Care in the Jail	6 hours
Investigative Process in the Jail	8 hours
Criminal Justice System	2 hours
Introduction to Rules and Regulations	
Governing Jails	2 hours
Subject Control Techniques	32 hours
TOTAL HOURS	67 hours

- (d) The Division shall grant a training waiver to individuals that:

- (1) hold general certification as a correctional officer issued by the North Carolina Criminal Justice Education and Training Standards Commission under 12 NCAC 09G .0304;
- (2) have completed training as a correctional officer after August 1, 2002;
- (3) are applicants for detention officer certification through a sheriff's office or a district confinement facility; and
- (4) do not have a break in service exceeding one year from the time of last employment as a correctional officer to the time of being appointed as a detention officer.

Detention officers that are granted a training waiver under this section shall serve a 12-month probationary period as set forth in Rule .0602(a) of this Section and provide the record of completion of the Basic Correctional Officer Training Course as defined in 12 NCAC 09G .0411. The Division shall review the course curriculum of the correctional officer training received against the training required by Rule .0601 of this Section and determine whether that training is comparable to the requirements set out in Rule .0601 of this Section. Based upon topics covered in the basic correctional officer training course, and the Division shall determine if additional training is required to ensure the applicant has received training comparable to that specified in Rule .0601 of this Section. The Division shall notify the employing agency of the resulting training requirements, if any, and the officer shall take and successfully complete the State Comprehensive Examination as set forth in Rule .0606 of this Section in its entirety during the probationary period after completing any training as determined to be necessary by the training evaluation referenced in this section, in a commission-certified Detention Officer Certification Course.

- (e) Applicants for detention officer certification who hold probationary justice officer certification as a deputy pursuant to Rule .0402 of this Subchapter or general justice officer certification as a deputy pursuant to Rule .0404 of this Subchapter, with the North Carolina Sheriffs' Education and Training Standards Commission, or a law enforcement officer that has probationary law enforcement officer certification, pursuant to 12 NCAC 09C .0303 or general law enforcement officer certification, pursuant to 12 NCAC 09C .0304, issued by the Criminal Justice Education and Training Standards

Commission, shall be granted a training waiver pursuant to this Section provided the individual:

- (1) has successfully completed the NC Basic Law Enforcement Training Course as outlined in 12 NCAC 09B .0205;
- (2) has had no break in service as a deputy sheriff or law enforcement officer exceeding one year;

(A) completing the following topic areas in a full delivery of a commission-certified Detention Officer Certification Course:

Course Orientation	3 hours
Ethics	3 hours
Fire Emergencies	4 hours
Aspects of Mental Illness	6 hours
Review and Testing	7 hours
Legal Aspects of Management and Supervision	14 hours
Contraband/Searches	6 hours
Medical Care in the Jail	6 hours
Patrol and Security Function of the Jail	5 hours
Key and Tool Control	2 hours
Supervision and Management of Inmates	5 hours
Suicides and Crisis Management	5 hours
Introduction to Rules and Regulations	2 hours
Stress	3 hours
Prison Rape Elimination Act	2 hours
TOTAL HOURS	73 hours

(B) completing a commission certified truncated delivery of the Detention Officer Certification Course that covers the following topic areas:

Course Orientation	3 hours
Ethics	3 hours
Fire Emergencies	4 hours
Aspects of Mental Illness	6 hours
Review and Testing	7 hours
Legal Aspects of Management and Supervision	14 hours
Contraband/Searches	6 hours
Medical Care in the Jail	6 hours
Patrol and Security Function of the Jail	5 hours
Key and Tool Control	2 hours
Supervision and Management of Inmates	5 hours
Suicides and Crisis Management	5 hours
Introduction to Rules and Regulations	2 hours
Stress	3 hours
Prison Rape Elimination Act	2 hours
TOTAL HOURS	73 hours

(f) A truncated delivery of the Detention Officer Certification Course that only teaches blocks as specified in Paragraph (e) of this Rule is hereby authorized and shall comply with the following requirements:

- (1) Each applicant shall complete form F-1, Medical History Statement, and pass the medical exam as required by Rule .0304 of this Subchapter.
- (2) Each executive officer or officers of the institution or agency sponsoring a truncated Detention Officer Certification Course shall comply with the provisions of Rule .0703 of this Subchapter except for Part .0703(c)(3)(D).
- (3) Each school director shall submit to the Commission a Pre-Delivery Report of

(3) serves a 12-month probationary period as a detention officer, as set forth in Rule .0602(a) of this Section; and

(4) takes and successfully completes the State Comprehensive Examination for the Detention Officer Certification Course in its entirety as set forth in Rule .0606 of this Section during that probationary period after:

of a commission-certified Detention Officer

Training Course Presentation (Form F-7A) in compliance with Rule .0704(6) of this Subchapter.

(4) Each school director shall not more than 10 days after receiving from the Commission's representative the Report of Examination Scores, submit to the Commission a Post-Delivery Report of Training Course Presentation (Form 7-B) in compliance with Rule .0704(13) of this Subchapter.

(5) The delivering institution or agency must be certified to deliver the Detention Officer Certification Course under Rule .0802 of this Subchapter.

- (6) Each presentation of the truncated Detention Officer Certification Course shall be reported to the Commission in compliance with Rule .0803 of this Subchapter.
- (7) All instructors, school directors, executive officers, or lecturers involved in teaching and administering a truncated Detention Officer Certification Course shall hold the same certifications and qualifications required of instructors, school directors, executive officers, or lecturers in the full Detention Officer Certification Course.

(g) Forms:

- (1) Form F-7A and F-7A-T, Pre-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on the course delivery location, school director, class schedule, anticipated date of the State Comprehensive Exam, and any planned instructional hours exceeding the minimum requirements. Form F-7A is utilized for Detention Officer courses and Form F-7A-T is utilized for Telecommunicator courses.
- (2) Form F-7B and F-7B-T, Post-Delivery Report of Training Course Presentation, is completed by the institution or agency delivering Detention Officer and Telecommunicator Training Courses and consists of information on any substitutions of instructors as originally reported on the Pre-Delivery Report, any trainees who were not recommended for the state exam due to withdrawal or deficiencies, and the students who participated in and completed the course. Form F-7B is utilized for Detention Officer courses and Form F-7B-T is utilized for Telecommunicator courses.

History Note: Authority G.S. 17E-4; 17E-7; Eff. January 1, 1989;

Amended Eff. February 1, 2014; August 1, 2011; January 1, 2006; August 1, 2002; August 1, 1998; February 1, 1998; January 1, 1996; January 1, 1993; January 1, 1992; January 1, 1991;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018;

Amended Eff. December 1, 2023; December 1, 2022.

TITLE 17 - DEPARTMENT OF REVENUE

17 NCAC 07B .0115 RESEARCH SERVICES

For purposes of G.S. 105-164.13, purchases of scientific or research equipment, or an attachment or repair part for scientific or research equipment, for use in performing research services are purchased for use, not resale.

History Note: Authority G.S. 105-164.13; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. October 1, 2009; April 1, 2006; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .0901 ADVERTISING AND ADVERTISING AGENCIES

(a) Professional Services to Produce Advertising. -- Advertising agencies are engaged in the business of rendering professional services when they produce advertising, such as radio and television spots or newspaper, magazine, or billboard advertising, and contract on their own behalf with radio and television stations, newspaper or magazine publishers, outdoor advertising companies, or other media for time or space to televise, broadcast, publish, or otherwise display their advertising. For purposes of G.S. 105-164.4, charges by advertising agencies for furnishing such professional services are not subject to sales or use tax if the charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale. For purposes of this Rule, a professional service by an advertising agency is one that meets the following criteria:

- (1) The agency selects or advises the client on the different kinds of advertising to be used.
- (2) The agency is primarily responsible for developing the concept or design of the advertising.
- (3) The agency produces or arranges for the production of the advertising.
- (4) The agency places or arranges for the placement of the advertising on radio or television stations or in newspapers, magazines, or other media and the agency purchases time or space in the media to display the advertising instead of delivering it to the client for placement or distribution.

(b) Professional Services to Produce a Report. -- Advertising agencies are also engaged in the business of rendering professional services when they contract to do market research, consulting, statistical analysis, or other services that result only in a report of their findings to the client. For purposes of G.S. 105-164.4, charges by advertising agencies for furnishing such services are not subject to sales and use tax if the charges are separately stated on the invoice or similar billing document given to the purchaser at the time of sale.

(c) Retail Sales. -- Advertising agencies are retailers when they produce, cause to be produced, fabricate, purchase, or otherwise acquire items, as the term item is defined in G.S. 105-164.3, that they sell at retail for any use or purpose other than for resale. Items sold by advertising agencies include: catalogs, magazines, handbills, brochures, programs, pamphlets, or similar printed materials, signs, paintings, portraits, negatives, photographs, vinyl wraps, certain digital property, or taxable services. Advertising agencies making retail sales of items shall collect, report, and remit sales and use tax on the sales price of such items, pursuant to G.S. 105-164.4.

The sales price to which the tax applies is the total amount for which the item is sold including all charges for services rendered in the production, fabrication, manufacture, or delivery of the

item, such as charges for creative time, commissions, supervision, research, transportation, installation, postage, telephone and electronic messages, copy, models' fees, stage props, printing, printing plates, film, positives, negatives, transparencies and color separations, even though the agency may separately state the charges on the invoice or similar billing document given to the purchaser at the time of sale.

(d) Retainer and Consultation Fees.

(1) Retainer. -- A retainer is generally collected in advance for future services to be rendered. Charges by advertising agencies to their clients for a retainer that is directly related to the purchase, acquisition, fabrication, or production and retail sale of taxable items are part of the sales price and are subject to sales and use tax, pursuant to G.S. 105-164.4, whether the retainer is separately stated on the customer's invoice or not. For purposes of G.S. 105-164.4, a retainer charged to clients is not subject to sales and use tax when it is solely in connection with the performance of professional services.

(2) Consultation Fees. -- Charges by advertising agencies to their clients for consultation fees directly related to the purchase, acquisition, fabrication, or production and retail sale of taxable items are a part of the sales price and are subject to sales and use tax, pursuant to G.S. 105-164.4, whether the consultation fees are separately stated on the customer's invoice or not. For purposes of G.S. 105-164.4, consultation fees charged to clients are not subject to sales and use tax when they are solely in connection with the performance of professional services.

(e) Purchases for Use in Rendering Professional Services. -- Advertising agencies are the users or consumers of items purchased by them for use in rendering professional services regardless of whether the items purchased are acquired in the name or account of the advertising agency or their client. Pursuant to G.S. 105-164.4, purchases by advertising agencies of film, printing plates, photographs, positives, negatives, transparencies, color separations, and similar items used in rendering professional services are subject to sales and use tax on the purchase price of the items without any deduction for the cost of the materials used, labor or service costs, transportation charges, or any expenses whatsoever. Advertising agencies that purchase taxable items sourced to this State from suppliers who do not charge and remit the applicable sales and use tax shall remit the use tax, pursuant to G.S. 105-164.6, due directly to the Department.

(f) Purchases for Resale. -- Pursuant to G.S. 105-164.13, purchases by advertising agencies of items for resale, or of paper, ink, and other tangible personal property, certain digital property, or services that become a part of tangible personal property or certain digital property sold by advertising agencies at retail or wholesale, are exempt from sales or use tax when the purchases are supported by a completed Certificate of Exemption in accordance with 17 NCAC 07B .0106. The term

"part of tangible personal property or certain digital property" includes only those items that are incorporated into and become a part of property sold and does not include those items that are merely used or consumed in its production. Purchases by advertising agencies of items used or consumed in the production of items for sale are subject to sales and use tax, pursuant to G.S. 105-164.4. For example, a photograph, transparency, printing plate, positive, negative, or color separation does not become an ingredient or component part of property sold even though the image thereon is reproduced as a part of the property sold and the purchase of such items is subject to sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-164.28; 105-164.28A; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. April 1, 2006; August 1, 1998; October 1, 1993; October 1, 1991; December 1, 1984; May 11, 1979; Readopted Eff. January 1, 2024.

17 NCAC 07B .0902 ADVERTISING ARTISTS

(a) Sales by Advertising Artists. -- Advertising artists are retailers when they produce, cause to be produced, fabricate, purchase, or otherwise acquire items, as the term item is defined in G.S. 105-164.3, that they sell at retail for any use or purpose other than for resale. Items sold by advertising artists include catalogs, magazines, handbills, brochures, programs, pamphlets, or similar printed materials; other tangible personal property such as signs, paintings, portraits, negatives, photographs, vinyl wraps, certain digital property, or other tangible artistic creations. Pursuant to G.S. 105-164.4, advertising artists making retail sales of items to users or consumers shall collect, report, and remit sales and use tax on the sales price of such items.

The sales price to which the tax applies is the total amount for which the item is sold including all charges for services rendered in the production, fabrication, manufacture, installation, postage, telephone and electronic messages, copy, models' fees, stage props, printing, printing plates, film, positives, negatives, transparencies, and color separations, even though the artist may separately state the charges on the invoice or similar billing document given to the purchaser at the time of sale.

(b) Purchases for Use in Rendering Professional Services. -- Advertising artists are the users or consumers of the items purchased by them for use in rendering professional services, regardless of whether the items are acquired in the name or account of the artist or their client. Pursuant to G.S. 105-164.4, purchases by advertising artists of items used in rendering professional services are subject to sales and use tax on the purchase price of the item without any deduction for the cost of the material used, labor or service costs, transportation charges, or other expenses. Advertising artists that purchase taxable items sourced to this State from suppliers who do not charge and remit the applicable sales tax shall remit the use tax, pursuant to G.S. 105-164.6, due directly to the Department.

(c) Purchases for Resale. -- Pursuant to G.S. 105-164.13, purchases by advertising artists of items for resale that become a part of tangible personal property or certain digital property sold

by the advertising artist at retail or wholesale are exempt from sales or use tax when the purchases are supported by a completed Certificate of Exemption in accordance with 17 NCAC 07B .0106. The term "part of tangible personal property or certain digital property" includes only those items that are incorporated into and become a part of property sold and does not include those items that are merely used or consumed in its production. Purchases by advertising artists of items used or consumed in the production of items for sale are subject to sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-164.13; 105-164.28; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .0904 PUBLIC RELATIONS FIRMS

(a) Rendering Professional Services. -- For purposes of G.S. 105-164.4, charges by a public relations firm to plan and conduct a public relations program that requires it to conduct research, opinion polls and surveys, compile data, perform analysis, and present a written, oral, or electronic report of its findings to its client, are not subject to sales or use tax.

(b) Purchases in Rendering Professional Services. -- Purchases by a public relations firm shall be subject to sales and use tax, pursuant to G.S. 105-164.4, on the purchase price of any item, as the term item is defined in G.S. 105-164.3, sourced to this State, and purchased for use in rendering professional services or carrying out the goals or objectives of the plan or concept.

(c) Making Retail Sales. -- Pursuant to G.S. 105-164.4, retail sales by public relations firms of taxable items are subject to sales or use tax. Taxable items sold by public relations firms include tangible personal property and certain digital property produced, fabricated, purchased, or acquired by the public relations firm and sold to its client and delivered to the client or to others on behalf of its client. Taxable items sold by public relations firms also include repair, maintenance, and installation services. The sales price of an item includes fees charged for costs directly involved in the production of the item and charges specifically associated with the fabrication, manufacture, or delivery of the item, such as charges for commissions, supervision, research, transportation charges, postage, telephone and electronic messages, copying, models' fees, stage props, printing, printing plates, films, positives, negatives, transparencies, and color separations even though the firm may separately state such charges on the invoice, similar billing document, or in the firm's records.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. October 1, 1993;

Amended Eff. April 1, 2006;

Readopted Eff. January 1, 2024.

17 NCAC 07B .1101 FARM MACHINERY:

EQUIPMENT: SERVICES

(a) Sales of items, as the term item is defined in G.S. 105-164.3, to farmers or other persons are exempt from tax when all of the following requirements are met:

- (1) the farmer or other person is a qualified or conditional farmer;
- (2) the farmer or other person has a current exemption certificate number;
- (3) the item is listed in G.S. 105-164.13E(a);
- (4) the farmer or other person primarily uses the item in farming operations; and
- (5) the seller complies with the certificate of exemption requirements in G.S. 105-164.28.

(b) Examples of farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery that are exempt from sales and use tax, pursuant to G.S. 105-164.13E, when purchased by qualifying or conditional farmers and used primarily in farming operations include the following:

- (1) tractors;
- (2) plows;
- (3) harrows;
- (4) cultivators;
- (5) mowers;
- (6) planters;
- (7) corn pickers and snappers;
- (8) manure spreaders;
- (9) manure loaders;
- (10) harvester threshers;
- (11) rotary tillers;
- (12) fertilizer distributors;
- (13) wind-rowers;
- (14) forage blowers;
- (15) stalk cutters;
- (16) seeders;
- (17) grain loaders;
- (18) harvesters;
- (19) cotton pickers;
- (20) rotary hoes;
- (21) corn and hay elevators;
- (22) tobacco curers;
- (23) tobacco flues;
- (24) tobacco trucks or slides;
- (25) wagons;
- (26) non-highway trailers;
- (27) mechanical rakes;
- (28) balers;
- (29) rod weeders;
- (30) combines;
- (31) tobacco transplanters;
- (32) shredders for corn stalks;
- (33) power loader lifts;
- (34) platform carriers;
- (35) portable insecticide sprayers;
- (36) chainsaws;
- (37) motor oils, greases, lubricants, and anti-freeze; and
- (38) hydraulic fluids.

(c) Examples of commercially manufactured equipment, and parts and accessories for equipment, that are exempt from sales and use tax, pursuant to G.S. 105-164.13E, when used, placed, or installed in a commercially manufactured facility, enclosure, or structure for housing, raising, or feeding animals include:

- (1) animal clippers and parts for animal clippers;
- (2) cooling fans;
- (3) egg cooling cabinets for housing, raising, or feeding poultry;
- (4) feed mills;
- (5) mechanical barn cleaners;
- (6) scales; and
- (7) silo unloaders.

(d) Examples of repair, maintenance, and installation services that are exempt from sales and use tax, pursuant to G.S. 105-164.13E, when purchased by a qualifying or conditional farmer include:

- (1) Repair or maintenance of a tractor that is used primarily in farming operations.
- (2) Repair of a roof for a chicken house used for housing, raising, or feeding chickens.
- (3) Repair or maintenance for any of the items listed in Paragraph (b) of this Rule.
- (4) Repair of a fence used for housing, raising, or feeding animals.

(e) Examples of items purchased by a qualifying or conditional farmer from a retailer that are subject to the sales or use tax, pursuant to G.S. 105-164.4, include:

- (1) lawn mowers;
- (2) snow plows;
- (3) oil and fuel storage tanks, mobile or stationery, and their fittings;
- (4) drainage tile;
- (5) paint, cleaning compounds and brushes;
- (6) snap bean graders;
- (7) all-terrain vehicles not used primarily in farming operations;
- (8) tools for maintaining machinery and equipment;
- (9) sickle grinders;
- (10) tobacco balers; and
- (11) ventilators that are part of a building or structure that have no moving parts and are installed in tobacco barns, other than bulk tobacco barns.

(f) The items listed in Paragraphs (a), (b), and (c) or this Rule must be purchased in accordance with G.S. 105-164.13E and G.S. 105-164.28A in order to be exempt from sales and use tax; otherwise, the items purchased are subject to sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13E; 105-164.28; 105-164.28A; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. June 1, 2006; August 1, 1996; April 1, 1995; July 1, 1994; October 1, 1993; June 1, 1992; Readopted Eff. January 1, 2024.

17 NCAC 07B .1123 CERTAIN SALES TO COMMERCIAL ANIMAL FARMERS

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; Eff. February 1, 1976; Amended Eff. June 1, 2006; August 1, 1998; August 1, 1996; May 1, 1995; October 1, 1993; June 1, 1992; February 1, 1988; Repealed Eff. January 1, 2024.

17 NCAC 07B .1301 OUT-OF-STATE DELIVERIES

(a) To qualify for the exemption from sales or use tax on out-of-State deliveries set out in G.S. 105-164.13(33a), a retailer who delivers items, as the term item is defined in G.S. 105-164.3, to the purchaser at a point outside the State, or causes items to be delivered by a common carrier or the United States Postal Service to the purchaser at a point outside the State, shall maintain documentation substantiating the transportation and delivery to a point outside the State. Documentation substantiating the transportation and delivery to a point outside the State shall be any of the following:

- (1) A waybill or bill of lading made out to the seller's order calling for delivery.
- (2) An insurance or registry receipt issued by the United States Postal Service, or a postal service receipt.
- (3) A trip sheet that is signed by the retailer's delivery agent, shows the signature and address of the person who received the delivered goods outside the State, and states the location and time of delivery.
- (4) Retailer's records kept in the ordinary course of business substantiating that a sale of certain digital property is sourced to a location outside North Carolina.

(b) A retailer is liable for rates of sales or use tax due on the sale as though the delivery was made in this State if it does not maintain documentation substantiating the transportation and delivery of an item to a point outside the State.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-164.13; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. July 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; Readopted Eff. January 1, 2024.

17 NCAC 07B .1302 IN-STATE DELIVERIES

Pursuant to G.S. 105-164.4, the sales price of items, as the term item is defined in G.S. 105-164.3, sold at retail that are delivered to a purchaser or the purchaser's agent in this State are subject to sales and use tax. Tax is due even if the purchaser or the purchaser's agent may subsequently transport, or employ someone else to transport the item out of this State.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. April 1, 2006; October 1, 1993; October 1, 1991;
January 1, 1982; February 8, 1981;
Readopted Eff. January 1, 2024.

**17 NCAC 07B .1305 FOREIGN COMMERCE:
PURCHASES FOR EXPORT**

(a) Tangible personal property purchased for export and exempt from sales or use tax pursuant to G.S. 105-164.13(33) will lose its exemption if:

- (1) the purchaser of the tangible personal property fails to submit Form E-599C, Purchaser's Affidavit of Export, to the seller and comply with the terms and conditions listed on the form; and
- (2) the tangible personal property is not exported within 90 days of purchase.

(b) Form E-599C requires the following information:

- (1) name of vendor;
- (2) address of vendor;
- (3) name of affiant;
- (4) title of affiant, if applicable;
- (5) name of vendee;
- (6) address of vendee;
- (7) name of foreign country;
- (8) identification of property purchased;
- (9) signature of affiant; and
- (10) signature, date, seal, and commission expiration date of Notary Public.

(c) A separate Form E-599C, Purchaser's Affidavit of Export, is required for each transaction.

(d) This exemption from sales and use tax does not extend to property acquired for personal use or consumption by the purchaser, including gifts.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. October 1, 1993;
Readopted Eff. January 1, 2024.

17 NCAC 07B .1602 REFUNDS TO NONPROFIT ENTITIES

(a) Eligibility. -- A nonprofit entity listed in G.S. 105-164.14(b) may file Form E-585, Nonprofit and Governmental Entity Claim for Refund State, County and Transit Sales and Use Taxes, to obtain a refund of sales and use tax paid by it on the following purchases when used in carrying on the work of the nonprofit entity:

- (1) Direct purchases of an item, as the term item is defined in G.S. 105-164.3, including reimbursement by the nonprofit entity for purchases by an authorized person of tangible personal property and services on behalf of the

nonprofit entity. For purposes of this Rule, an authorized person is a person designated by a nonprofit entity, within its records, to purchase tangible personal property and services on behalf of the nonprofit entity.

- (2) Indirect purchases of building materials, supplies, fixtures, and equipment that become part of or are annexed to any building or structure the entity owns or leases, and is being erected, altered, or repaired for use by the entity in carrying on its nonprofit activities.

A claim for refund applies to sales and use tax paid during the period for which the claim for refund is filed. Taxes for which a refund is allowed under G.S. 105-164.14(b) are not an overpayment of tax and do not accrue interest.

(b) Form E-585, requires the following information:

- (1) name and address of entity requesting the refund;
- (2) Federal Employer Identification Number;
- (3) account number;
- (4) refund period beginning and ending dates;
- (5) contact person name and telephone number;
- (6) designation as either a nonprofit entity or governmental entity;
- (7) National Taxonomy of Exempt Entities (NTEE) number for nonprofit entities;
- (8) name of taxing county if taxes were paid in only one county. Where more than one county's sales and use tax has been paid, attach Form E-536E, Schedule of County Sales and Use Taxes for Claims for Refund, and show the amount paid for each county's applicable local and transit rates of tax.
- (9) total purchases of items for use on which State, food, county and transit sales or use tax was paid directly to the retailer;
- (10) amount of sales and use tax paid directly to retailers on purchases;
- (11) amount of sales and use tax paid indirectly to retailers on purchases;
- (12) amount of use tax paid directly to the Department on purchases;
- (13) total tax paid;
- (14) total refund amount requested;
- (15) allocation of food, county and transit tax amounts; and
- (16) signature of person authorized to legally bind entity and date form signed.

(c) Records -- A claim for refund shall be supported by documentation showing the amount of sales and use tax paid. Records shall be maintained by the nonprofit entity on a county-by-county basis to identify local and transit sales and use tax paid by the nonprofit entity. A claim for refund shall be denied if a nonprofit entity fails to produce documentation supporting a direct or indirect purchase upon request by the Department.

(d) Documentation for Direct Purchases. -- Documentation to substantiate sales or use tax paid directly to a retailer or the Department is an invoice or copy of an invoice that identifies the item purchased, the date of the purchase, the purchase price of

the item, the amount of sales or use tax paid, and a record reflecting the date of payment. Documentation to substantiate an authorized person is designated to make purchases on behalf of the nonprofit entity shall include the name and address of the designee and the effective date of the designation.

(e) Documentation for Indirect Purchases. -- Documentation to substantiate sales or use tax paid indirectly on purchases of building materials, supplies, fixtures, and equipment by the nonprofits' real property contractor or other person, is a certified statement from the real property contractor or other person that purchased the items.

- (1) The certified statement shall include the following information:
 - (A) the date the item was purchased;
 - (B) the type of item purchased;
 - (C) the name of the retailer or other person from whom the item was purchased;
 - (D) the invoice or order reference number of the purchase;
 - (E) the purchase price of the item;
 - (F) the amount of sales or use tax paid to this State with the applicable local and transit rates of tax shown separately from the State rate of tax.
 - (G) the project for which the item was used;
 - (H) if the item was purchased in this State, the county in North Carolina in which the item was delivered and a copy of the sales invoice;
 - (I) if the item was not purchased in this State, the county in North Carolina in which the item was used; and
 - (J) the signature of the real property contractor or corporate officer or employee of the real property contractor who is authorized to provide the information.
- (2) In the event the real property contractor or other person makes several purchases from the same retailer, the certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the general State, and applicable local and transit rates of sales or use tax paid.
- (3) If items are withdrawn from a real property contractor or other person's warehouse stock, the certified statement shall include the purchase price of the items and the amount of the general State, and applicable local and transit rates of sales and use tax paid.
- (4) A real property contractor or other person shall not include in its certified statement sales or use tax paid on items purchased and used to fulfill the real property contract that did not become part of or annexed to the building constructed. Examples of items that shall not to be included in the certified statement are

scaffolding, forms for concrete, fuel to operate machinery and equipment, tools, equipment repair parts, and equipment rentals.

(f) Taxes Not Eligible for Refund. -- The refund provisions of this Rule do not apply when a non-profit entity listed in G.S. 105-164.14(b), reimburses a personal expense of an employee. This includes purchases paid for by the employee of food, lodging, or other personal taxable travel expenses, including any sales and use tax incurred. The refund provisions of this Rule do not apply to the following taxes:

- (1) Sales or use tax remitted on taxable sales.
- (2) Sales or use tax paid on the purchase of "alcoholic beverages" as defined in G.S. 18B-101.
- (3) Sales or use tax paid on electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan.
- (4) Local occupancy taxes paid to certain counties and cities in this State.
- (5) Local prepared food and beverage taxes paid to various local governments in this State.
- (6) Highway use tax or alternate highway use tax paid on the purchase, vehicle subscription, lease, or rental of motor vehicles.
- (7) White goods disposal tax paid on purchases of new white goods.
- (8) Scrap tire disposal tax paid on purchases of new tires.
- (9) Dry-cleaning solvent tax paid on dry-cleaning solvent purchased by a dry cleaning facility.
- (10) Solid waste disposal tax.
- (11) 911 service charge for prepaid wireless telecommunications service.
- (12) Other states' sales or use taxes paid to those states.

(g) The provisions of G.S. 105-164.14(b) and this Rule apply to out-of-state nonprofit entities to the extent the out-of-state nonprofit entity pays North Carolina sales or use tax on purchases for use in carrying on the entities nonprofit activities, whether those activities occur in or outside this State.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.14; 105-241.7; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. April 1, 2006; July 1, 2000; July 1, 1999; August 1, 1998; April 1, 1997; August 1, 1996; October 1, 1993; March 1, 1993; June 1, 1992; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .1701 GOVERNMENTAL SALES AND PURCHASES

(a) Sales to and Purchases by Governmental Entities. -- With the exception of electricity, telecommunications service, and ancillary service, sales to North Carolina State agencies are exempt from State and local sales or use tax if all of the conditions set out in G.S. 105-164.13(52) are met. This

exemption does not apply to sales of items, as the term item is defined in G.S. 105-164.3, to a person, including a real property contractor, for use in the performance of a contract with State agencies or to sales of items to employees of State agencies. Pursuant to G.S. 105-164.4, sales to counties, cities, and other political subdivisions are subject to sales and use tax.

(b) **Taxable Sales by Governmental Entities.** -- A governmental entity, including a State agency that sells items at retail is a retailer. A governmental entity that is a retailer shall register with the Department, in accordance with 17 NCAC 07B .0104, and report, collect, and remit sales and use tax due on retail sales. The annual refund for certain governmental entities, as provided by G.S. 105-164.14(c), does not apply to the tax due on retail sales made by a governmental entity. Governmental entities registered with the Department may purchase items for resale without paying sales tax to the seller by providing a completed Certificate of Exemption in accordance with 17 NCAC 07B .0106.

(c) **Sales to the North Carolina Department of Transportation.** -- Sales of items to the Department of Transportation are exempt from State, local, and transit rates of sales and use tax, pursuant to G.S. 105-164.13(40). This exemption does not apply to sales of items to a person, including a real property contractor, for use in the performance of a contract with the Department of Transportation or to sales of items to an employee of the Department of Transportation.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. October 1, 2009; August 1, 1998; August 1, 1996; October 1, 1993; October 1, 1991; May 1, 1990; February 1, 1987;
Readopted Eff. January 1, 2024.

17 NCAC 07B .1702 REFUNDS TO COUNTIES, CITIES, AND OTHER GOVERNMENTAL ENTITIES

(a) **Eligibility.** -- A governmental entity listed in G.S. 105-164.14(c) may file Form E-585, Nonprofit and Governmental Entity Claim for Refund for State, County and Transit Sales and Use Taxes, to obtain a refund of sales and use tax paid by it on the following purchases:

- (1) Direct purchases of items, as the term item is defined in G.S. 105-164.3.
- (2) Indirect purchases of building materials, supplies, fixtures, and equipment that become part of or are annexed to any building or structure the entity owns or leases, and is being erected, altered, or repaired for use by the entity.

A claim for refund applies to sales and use tax paid during the period for which the claim for refund is filed. Taxes for which a refund is allowed under G.S. 105-164.14(c) are not an overpayment of tax and do not accrue interest.

(b) Claims for refund by governmental entities shall be filed on Form E-585, and requires all the information set out in 17 NCAC 07B .1602(b).

(c) **Records.** -- A claim for refund shall be supported by documentation showing the amount of sales and use tax paid. Records shall be maintained by the governmental entity on a county-by-county basis to identify local and transit sales and use tax paid by the governmental entity. Local tax rates by county, including any transit tax can be found on the Department's website at www.ncdor.gov.

(d) **Documentation for Direct Purchases.** -- Documentation to substantiate sales or use tax paid directly to a retailer or the Department is an invoice or copy of an invoice that identifies the item purchased, the date of the purchase, the purchase price of the item, the amount of sales or use tax paid, and a record reflecting the date of payment.

(e) **Documentation for Indirect Purchases by a Real Property Contractor or Other Person.** -- Documentation to substantiate sales or use tax paid indirectly on purchases of building materials, supplies, fixtures, and equipment by the governmental entity's real property contractor or other person, is a certified statement from the real property contractor or other person that purchased the items.

- (1) A certified statement shall contain the information set out in G.S. 105-164.14(e)(1) through (6).
- (2) If the item was purchased in this State, the person shall attach a copy of the sales invoice.
- (3) In the event the real property contractor or other person makes several purchases from the same retailer, the certified statement shall indicate the invoice numbers, the inclusive dates of the invoices, the total amount of the invoices, and the sales or use tax paid.
- (4) If items are withdrawn from a real property contractor or other person's warehouse stock, the certified statement shall include the purchase price of the items and the amount of the sales or use tax paid.
- (5) A real property contractor or other person shall not include in its certified statement sales or use tax paid on items purchased and used to fulfill the real property contract that did not become part of or annexed to the building constructed. Examples of items that shall not be included in the certified statement are scaffolding, forms of concrete, fuel to operate machinery and equipment, tools, equipment repair parts, temporary fencing/netting, and equipment rentals.

(f) **Taxes not Eligible for Refund** -- The refund provisions of this Rule do not apply to the following taxes:

- (1) Sales or use tax remitted on taxable sales made by the governmental entity.
- (2) Sales or use tax paid on the purchase of "alcoholic beverages" as defined in G.S. 18B-101.
- (3) Sales or use tax paid on electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan.

- (4) Local occupancy taxes paid to certain counties and cities in this State.
- (5) Local prepared food and beverage taxes paid to various local governments in this State.
- (6) Highway use tax or alternate highway use tax paid on the purchase, vehicle subscription, lease, or rental of motor vehicles.
- (7) White goods disposal tax paid on purchases of new white goods.
- (8) Scrap tire disposal tax paid on purchases of new tires.
- (9) Dry-cleaning solvent tax paid on dry-cleaning solvent purchased by a dry cleaning facility.
- (10) Solid waste disposal tax.
- (11) 911 service charge for prepaid wireless telecommunications service.
- (12) Other states' sales or use taxes paid to those states.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.14; 105-241.7; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. July 1, 2000; August 1, 1998; April 1, 1997; August 1, 1996; October 1, 1993; October 1, 1991; May 1, 1990; February 1, 1997; Readopted Eff. January 1, 2024.

17 NCAC 07B .1704 GOVERNMENTAL ENTITIES NOT ELIGIBLE FOR REFUNDS

G.S. 105-164.14(c) lists the governmental entities eligible for annual refunds of sales and use tax paid on certain direct purchases. A governmental entity not listed in that subsection is not eligible for an annual refund. The governmental entities that are not eligible for an annual refund include the following:

- (1) An alcoholic beverage control board.
- (2) A community college established under G.S. 115D.
- (3) A drainage district.
- (4) A housing authority.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.14; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. April 1, 1999; October 1, 1993; May 1, 1990; July 5, 1980; Readopted Eff. January 1, 2024.

17 NCAC 07B .1801 SALES TO AND PURCHASES BY HOSPITALS AND SIMILAR INSTITUTIONS

(a) General. -- Hospitals and similar institutions are primarily engaged in rendering services and are the consumers of all items, as the term item is defined in G.S. 105-164.3, they purchase for use in connection with the operation of the hospital or similar institutions. Pursuant to G.S. 105-164.4, hospitals and similar institutions purchasing items for use, such as linens, soap, toilet paper, facial tissues, and other supplies, shall pay sales or use tax due on the purchase of the items. For purposes of this Rule,

similar institutions include nursing homes, ambulatory surgical facilities, psychiatric hospitals, chemical dependency facilities, and other institutions primarily engaged in providing a health service, as the term is defined in G.S. 131E-176(9a).

(b) Purchases of Drugs for Use. -- Hospitals and similar institutions are the consumers of drugs and over-the-counter drugs used in administering treatment to patients. Purchases of drugs and over-the-counter drugs by hospitals or similar institutions are subject to sales or use tax.

(c) Purchases and Sales of --Food:

- (1) Hospitals and similar institutions are the consumers of food they purchase to furnish meals to patients. Pursuant to G.S. 105-164.4 and G.S. 105-467, purchases of food used to furnish meals to patients by hospitals and similar institutions are subject to sales and use tax.
- (2) Hospitals and similar institutions that make sales of food to guests, visitors, employees, staff, students, patients when the sale of food is not part of their health care services, or other persons shall register with the Department, in accordance with 17 NCAC 07B .0104, and collect and remit the sales and use tax due on the sales.
- (3) If food purchased by a hospital or similar institution for use in furnishing meals to patients cannot be distinguished from the food purchased for resale to other persons, the hospital or similar institution may purchase all the food exempt from sales or use tax, pursuant to G.S. 105-164.13(5), under a certificate of exemption, in accordance with 17 NCAC 07B .0106. A hospital or similar institution that purchases food under a certificate of exemption assumes liability for payment of sales or use tax due on the purchase price of food used in furnishing meals to its patients.

(d) Gift Shops and Other Retail Sales. -- A hospital or similar institution that operates a gift shop or other business making retail sales shall register with the Department and collect and remit the sales and use tax due on its retail sales. The tax due shall be computed on the sales price or purchase price of the item sold. If, at the time of sale, a hospital or similar institution cannot distinguish whether an item will be used or resold, the hospital or similar institution may purchase the item exempt from sales and use tax, pursuant to G.S. 105-164.13(5), under a certificate of exemption. A hospital or similar institution that purchases an item under a certificate of exemption which is subsequently used by the hospital, including items used to provide services to patients, must pay the sales or use tax due on the purchase price of the item.

(e) Use of a Certificate of Exemption. -- Except as provided by Paragraphs (c) and (d) of this Rule, a Certificate of Exemption may not be used by hospitals or similar institutions when making taxable purchases of items for use or consumption. The sales or use tax due on taxable purchases from retailers that collect North Carolina sales or use tax shall be paid to the retailer. Pursuant to

G.S. 105-164.6, hospitals and similar institutions that make taxable purchases from suppliers that do not collect and remit North Carolina sales tax shall register with the Department and remit the tax due on the purchase price of items purchased for use or consumption.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; Eff. February 1, 1976; Amended Eff. July 1, 2000; May 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; July 1, 1989; Readopted Eff. January 1, 2024.

17 NCAC 07B .1905 TIRE RETREADERS

(a) Sales by Tire Retreaders:

- (1) Sales of Retreaded Tires. – Pursuant to G.S. 105-164.4, the sales price of a retreaded tire is subject to sales and use tax on the sales price of the retreaded tire, without any deduction for any trade-in credit or allowance.
- (2) Tire Retreading Services. – Pursuant to G.S. 105-164.4, the gross receipts derived from tire retreading services are subject to sales and use tax, without any deduction for any trade-in credit or allowance.
- (3) Sales of Other Parts or Services. -- The sales price of other items sold by a tire retreader including shoes, valves, dust caps, and repair, maintenance, and installation services are subject to sales and use tax, pursuant to G.S. 105-164.4.

(b) Purchases by Tire Retreaders:

- (1) Purchases of Ingredient or Component Parts. – Pursuant to G.S. 105-164.13, a tire retreader may purchase exempt from sales and use tax tangible personal property that enters into or becomes an ingredient or component part of retreaded tires that are resold. Such items may include camelback or other rubber products, cement and rubber solvent, cord fabric, wheel weights, and other similar items.
- (2) Purchases of Mill Machinery or Mill Machinery Parts or Accessories. -- Purchases by tire retreaders of mill machinery, or mill machinery parts or accessories used primarily in the "production" phase of the retreading process are exempt from sales and use tax, pursuant to G.S. 105-164.13(5e). For purposes of this Rule, "Production" as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture for sale. The

"Production" phase also includes the following:

- (A) The movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line.
- (B) The movement of goods in process along the assembly or processing line.
- (C) The movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility.
- (D) The work of experimentation and research performed on the manufactured products.

"Production" does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include "distribution" which is any activity connected with the movement of manufactured products within storage warehouses, shipping rooms, and other such finished product storage areas and the removal of such products therefrom for sale or shipment, or "administration" which is any administrative work of offices, promotion of sales, and collection of accounts.

(c) The following items when sold to tire retreaders for use primarily in the retreading process are considered to be mill machinery or mill machinery parts or accessories exempt from sales and use tax, pursuant to G.S. 105-164.13(5e). This is not an all-inclusive list:

- (1) Air compressors.
- (2) Bagging and debagging equipment.
- (3) Boilers.
- (4) Buffing discs.
- (5) Buffing equipment.
- (6) Buffing rasps.
- (7) Casing balancers and balancing casings to be retreaded.
- (8) Crayons for marking tires.
- (9) Curing tubes and rims.
- (10) Dust collectors.
- (11) Inspection spreaders used to inspect casings being retreaded.
- (12) Knives, stitchers, rollers, shears, awls, and splicing tools used to perform work on the ingredient material or the manufactured product.
- (13) Matrix loaders.
- (14) Mold cleaners.
- (15) Mold lube.
- (16) Molds and matrices.
- (17) Pre-condensing tanks for air lines used for applying cement, dusting buffed casings, and inflating curing tubes.
- (18) Rasp teeth.

- (19) Spinners used for applying cement used on casings being retreaded.
- (20) Sprayers.
- (21) Steam traps and valves used in steam lines for curing molds.
- (22) Thermometers, pyrometers, and durometers used in testing mold heat and cure hardness of the rubber used in the retreading process.
- (23) Tire handling equipment used between the beginning and ending steps for the retreading process.
- (24) Tire trimmers.
- (25) Tread builders used to apply tread rubber to casings being retreaded.
- (26) Wire brushes.

(d) Purchases of items used or consumed. -- Purchases by tire retreaders of items used or consumed by them are subject to sales and use tax, pursuant to G.S. 105-164.4. The following are examples of items used or consumed by tire retreaders that are subject to sales or use tax. This is not an all-inclusive list:

- (1) Administrative equipment such as office supplies, file cabinets, and other office equipment.
- (2) Advertising materials.
- (3) Balancing machinery used after the retreading process is completed.
- (4) Cleaning compounds for janitorial and sanitary purposes.
- (5) Equipment used to remove tires from the rim before the retreading process begins.
- (6) Gloves.
- (7) Inspection bags.
- (8) Motor vehicle jacks.
- (9) Tire tools not used between the beginning and end of the retreading process.
- (10) Uniforms for employees.

(e) Purchases of Other Items for Resale. -- Tire retreaders making purchases of items for resale may purchase such items exempt from sales and use tax, pursuant to G.S. 105-164.13(5), and when purchased in accordance with 17 NCAC 07B .0106.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 2009; July 1, 1999; October 1, 1993; June 1, 1992; October 1, 1991; May 1, 1985;

Readopted Eff. January 1, 2024.

17 NCAC 07B .1907 SCRAP TIRE DISPOSAL TAX

(a) The scrap tire disposal tax established in G.S. 105-187.16 applies to the sale or purchase of new tires including new tires for motor vehicles, aircraft, construction equipment, maintenance and industrial equipment, and implements of husbandry, farm tractors, special mobile equipment as defined in G.S. 105-164.3, or vehicles designed primarily for use in non-highway work.

(b) Lessors of vehicles shall pay the scrap tire disposal tax to the retailer or wholesale merchant when they purchase a new tire.

(c) Lessors of tires shall pay the scrap tire disposal tax to the retailer or wholesale merchant when they purchase a new tire. The receipts from the lease or rental of tires are not subject to the scrap tire disposal tax but are subject to the sales or use tax, pursuant to G.S. 105-164.4.

(d) The scrap tire disposal tax applies to purchases of new tires from inside or outside of North Carolina for storage, use or consumption in North Carolina, including for placement on a vehicle offered for sale, lease or rental in this State.

(e) Tire retailers shall separately state and charge the scrap tire disposal tax on the invoice or similar billing document given to purchasers at the time of sale except where the retailer displays a statement indicating the sales price includes the scrap tire disposal tax.

(f) The sales price on which the scrap tire disposal tax is computed includes the federal excise tax on new tires. The sales price on which the scrap tire disposal tax is computed does not include the sales and use tax due on the sale. The sales price on which the sales and use tax is computed does not include the scrap tire disposal tax due on the sale.

(g) Persons required to collect and remit the scrap tire disposal tax shall register with the Department in accordance with 17 NCAC 07B .0104. The scrap tire disposal tax shall be paid and reported on Form E-500G, Scrap Tire Disposal Tax Return, which shall contain the following information:

- (1) name and address of entity filing return;
- (2) beginning and ending dates of return period;
- (3) account number;
- (4) amount of gross receipts;
- (5) amount of sales for resale;
- (6) amount of exempt sales by type;
- (7) total exempt sales;
- (8) total taxable sales;
- (9) amount of receipts or purchases for tires with a bead diameter of less than 20 inches;
- (10) amount of tax due for receipts or purchases for tires with a bead diameter of less than 20 inches;
- (11) amount of receipts or purchases for tires with a bead diameter of at least 20 inches;
- (12) amount of tax due for receipts or purchases for tires with a bead diameter of at least 20 inches;
- (13) amount of total tax for all tires;
- (14) amount of total tax due; and
- (15) signature of person authorized to legally bind entity and date form signed.

History Note: Authority G.S. 105-164.3; 105-164.29; 105-187.15; 105-187.16; 105-187.17; 105-262; 105-264;

Eff. October 1, 1991;

Amended Eff. October 1, 1993; June 1, 1992;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2101 ELECTRICITY, PIPED NATURAL GAS, AND OTHER FUEL

(a) Gross Receipts. -- For purposes of this Rule, "gross receipts" means the total amount or consideration for which the item subject to tax is sold or purchased and includes:

- (1) All charges, costs, credits, and discounts included in the "sales price" as defined in G.S. 105-164.3;
- (2) All charges for items provided in the production and delivery of the taxable item to customers, even if some charges are billed separately from the charge for metered services;
- (3) Separately stated charges billed to customers for repair, maintenance, and installation services or contribution in aid of construction; and
- (4) The amount actually charged to customers for the taxable item consumed during the billing period, even if a customer participates in an equal pay agreement.

(b) Electricity. -- Electricity is tangible personal property and the gross receipts derived from the retail sales, including any separately stated charges billed to customers for repair, maintenance, and installation services or contribution in aid of construction, is subject to the combined general rate of sales and use tax, pursuant to G.S. 105-164.4(9). Sales tax is computed on the gross receipts after any allowance for conservation or load control discounts on metered electric service for residential customers. Local and transit rates of sales and use tax not included in the combined general rate do not apply to sales or purchases of electricity.

(c) Piped Natural Gas. -- Piped natural gas is tangible personal property and the gross receipts derived from the retail sales, including any separately stated charges billed to customers for repair, maintenance, and installation services or contribution in aid of construction, is subject to the combined general rate of sales and use tax, pursuant to G.S. 105-164.4(a)(9). Local and transit rates of sales and use tax not included in the combined general rate do not apply to sales or purchases of piped natural gas.

(d) Other Fuel. -- The sale of fuels including bottled gas, coal, coke, fuel oil, oxygen, acetylene, hydrogen, liquefied petroleum gas, or other combustible is subject to sales and use tax, pursuant to G.S. 105-164.4(a)(1).

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.16; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 2009; July 1, 2000; August 1, 1998; October 1, 1993; October 1, 1991; May 1, 1990; August 1, 1986;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2102 SAWDUST USED AS FUEL

History Note: Authority G.S. 105-164.13; 105-262;

Eff. February 1, 1976;

Amended Eff. August 1, 2009;

Repealed Eff. January 1, 2024.

17 NCAC 07B .2105 AVIATION FUEL

The gross receipts derived from the retail sale of aviation gasoline and jet fuel are subject to the combined general rate of sales and use tax, pursuant to G.S. 105-164.4(a)(15). For purposes of this Rule, gross receipts include any federal excise tax imposed on the retailer, even if the federal excise tax is listed separately on the invoice, bill of lading, or similar billing document. Gross receipts do not include federal excise taxes imposed directly on a consumer if the tax is separately stated on the invoice, bill of sale, or similar document given to the customer.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; 105-264;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; October 1, 1990; January 3, 1984;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2201 FOOD AND FOOD PRODUCTS

(a) Retail sales and purchases of food and food products not included in Paragraph (b) of this Rule are subject to the two percent local food rate of sales and use tax, imposed by Articles 39, 40, and 42 of Chapter 105 of the North Carolina General Statutes, and are exempt from the general State rate of sales and use tax, pursuant to G.S. 105-164.13B. The local and transit taxes imposed by Articles 43 and 46 of Chapter 105, do not apply to food and food products that are exempt from the State rate of sales and use tax.

(b) The following food and food products are subject to sales and use tax, pursuant to G.S. 105-164.4:

- (1) Dietary supplements.
- (2) Food sold through a vending machine.
- (3) Prepared food, other than bakery items sold without eating utensils by an artisan bakery.
- (4) Soft drinks.
- (5) Candy.
- (6) Food or prepared food provided by prepaid meal plans.

(c) Schools making purchases of food that is exempt under G.S. 105-164.13(26) and G.S. 105-164.13(26a), are required to furnish their suppliers a Certificate of Exemption, or the required data elements, in accordance with 17 NCAC 07B .0106. Failure to provide a Certificate of Exemption or other documentation to the supplier, for entry of the information in their records and on the sales invoice identifying the food purchased as food to be sold exempt by the school, shall subject the transaction to sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4L; 105-164.6; 105-164.13; 105-164.13B; 105-164.28; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-506.2; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; August 1, 2002; May 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; February 1, 1986; May 11, 1979;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2205 CATERING

(a) Catering is the retail sale of food, prepared food, beverages, and other tangible personal property or services at a location designated by the customer or another person. A person engaged in the catering business, including a personal chef that provides and prepares food for consumers, is a retailer. A location may include the caterer's banquet facility, a hotel, a restaurant, the customer's home, or any other location. All charges connected with the furnishing, preparing or serving of food, prepared food, beverages, and other tangible personal property or services to consumers are part of the sales price subject to sales and use tax, pursuant to G.S. 105-164.4.

(b) Charges for services, including bartending or carving services, connected with the sale of catered food or drink are part of the sales price subject to sales tax, pursuant to G.S. 105-164.4, even if the charges for the services are separately stated on an invoice or similar billing document. Separately stated bartending charges, including corkage fees, for service of beverages owned or provided by the caterer's customer are not part of the sales price subject to sales tax under G.S. 105-164.4.

(c) Charges for a venue by a caterer that are connected with the furnishing, preparing, and serving food or drink are part of the sales price subject to sales and use tax, pursuant to G.S. 105-164.4, even if the charges are separately stated on the invoice or similar billing document.

(d) Charges by a caterer for chairs, linens, tables, flatware, and similar items used to provide catering are subject to sales and use tax, pursuant to G.S. 105-164.4, even if the charges are separately stated on the invoice or similar billing document. In addition, a caterer shall pay sales and use tax on the purchase price of such items as they are not resold to their customers.

(e) Charges for nontaxable services that are not a part of the sales price and are not connected with the furnishing, preparing, or serving of food, prepared food, beverages, and other tangible personal property are not subject to sales tax, pursuant to G.S. 105-164.4, provided the charges are separately stated on the invoice or similar billing document given to the customer at the time of the sale and in the catering business' records; otherwise, the non-separately stated charges are part of the sales price and is subject to sales tax under G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4L; 105-164.6; 105-164.22; 105-262; 106-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2209 SCHOOL STORES' SALES

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262;

Eff. February 1, 1976;

Amended Eff. October 1, 1993;

Repealed Eff. January 1, 2024.

17 NCAC 07B .2210 SUMMER CAMPS AND SIMILAR CAMPS

(a) For purposes of this Rule, a summer camp is a program primarily providing children and adolescents recreational, athletic, or educational facilities and programming for a limited period of time during the summer vacation period. Similar camps are camps that provide such facilities and programming to children and adolescents during other school breaks or to persons with special needs at any time.

(b) Pursuant to G.S. 105-164.4F(e), a summer camp or similar camp that charges a weekly or monthly fee for campers enrolled in the courses or activities offered by the camp is not liable for collecting sales tax on such charges, even if the fee includes food and prepared food provided to campers during time spent at the camp.

Summer camps and similar camps purchasing food, prepared food, or other tangible personal property that is used to provide food and prepared food to campers as part of the operation of the camp shall pay sales and use tax on the purchases, pursuant to G.S. 105-164.4.

(c) Summer camps and similar camps that operate cafeterias, restaurants, snack stands, or similar places that make retail sales of food, prepared food, or other tangible personal property to campers or other persons shall collect and remit the sales tax on the retail sales.

(d) A person who, in addition to operating a summer camp or similar camp, rents accommodations shall collect and remit the sales and use tax on the gross receipts derived from such rentals of accommodations, pursuant to G.S. 105-164.4F(b).

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4F; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 1993; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2212 SALES OF FISH AND OTHER SEAFOODS

(a) A person making retail sales of fish or other seafood shall collect and remit sales and use tax on the sales price of the fish or other seafood unless exempt under Paragraph (b) of this Rule. The rates of sales and use tax on fish and other seafood are as follows:

- (1) Fish or other seafood sold for ingestion or chewing by humans and that is consumed for its taste or nutritional value is subject to the two percent local food rate of sales and use tax, imposed by Articles 39, 40, and 42 of Chapter 105 of the North Carolina General Statutes, unless the fish or other seafood is prepared food.
- (2) Fish or other seafood meeting the definition of prepared food in G.S. 105-164.4L is subject to sales and use tax, pursuant to G.S. 105-164.4.
- (3) Live fish or other seafood not intended for human consumption, such as pet fish or fish

for ponds, is subject to sales and use tax, pursuant to G.S. 105-164.4.

- (4) Fish or other seafood sold for bait is subject to sales and use tax, pursuant to G.S. 105-164.4.
- (5) Other sales of fish or other seafood are subject to sales and use tax, pursuant to G.S. 105-164.4.

(b) Pursuant to G.S. 105-164.13(7), sales of fish or other seafood in its original or unmanufactured state by a person selling in the capacity of a producer, such as an angler or fisher selling in that capacity, are exempt from sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4L; 105-164.13; 105-262; 105-264; 105-467; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. August 1, 2009; May 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2213 SERVICE CHARGES IMPOSED ON FOOD, BEVERAGES, OR PREPARED FOOD

(a) Service Charges Up To 20 Percent. -- A service charge imposed by a retailer for the service of food, beverages, or prepared food, is considered a tip and not subject to sales and use tax pursuant to G.S. 105-164.4, if it meets all of the following requirements:

- (1) The service charge does not exceed 20 percent of the sales price.
- (2) The service charges is separately stated in the price list, menu, or written proposal and also in the invoice or similar billing document.
- (3) The service charge is turned over to the personnel directly involved in the service of the food, beverages, or prepared food, in accordance with G.S. 95-25.6.

(b) Service Charges Over 20 Percent. -- If a service charge imposed by a retailer for the service of food, beverages, or prepared food, exceeds 20 percent of the sales price, the portion of the service charge that equals 20 percent of the sales price is considered a tip and not subject to sales and use tax pursuant to G.S. 105-164.4, if it meets all of the following requirements:

- (1) The service charge is separately stated in the price list, menu, or written proposal and also in the invoice or similar billing document.
- (2) A portion of the service charge that is at least 20 percent of the sales price is turned over to personnel directly involved in the service of the food, beverages, or prepared food in accordance with G.S. 95-25.6.

(c) Service charges imposed on food, beverages, or prepared food include:

- (1) Automatic gratuity charged to large dining parties.
- (2) Service charges for delivery of room service.
- (3) Service charges for bottle service in nightclubs.
- (4) Service charges for banquet room catering.

(d) Personnel not directly involved in the service of food, beverages, or prepared food include:

- (1) Hosts.
- (2) Maître d's.
- (3) Valets.
- (4) Manager and supervisors.
- (5) Chefs.
- (6) Bartenders that prepare, but do not regularly serve food or drinks.
- (7) Dishwashers.
- (8) Bussers.

(e) Service charges subject to sales and use tax pursuant to G.S. 105-164.4, include:

- (1) For service charges of 20 percent or less of the sales price, the full amount of a service charge if any portion of the service charge is paid to personnel not directly involved in service of food, beverages, or prepared food.
- (2) For service charges that exceed 20 percent of the sales price, the full amount of a service charge if any portion of the service charge that is less than 20 percent of the sales price is paid to personnel not directly involved in service of food, beverages, or prepared food.
- (3) The full amount of a service charge that is not separately stated as set out in G.S. 105-164.13A.
- (4) The portion of any service charge that exceeds 20 percent.

(f) Record Keeping. -- Failure of a retailer to keep records that establish that a service charge meets the requirements in Paragraph (a) or (b) of this Rule subjects the retailer to liability for sales and use tax on the full amount of the service charge.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13A; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. January 3, 1984;

Amended Eff. July 1, 2000; October 1, 1993;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2301 IN GENERAL

History Note: Authority G.S. 105-164.3; 105-164.5; 105-262;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; February 1, 1988;

Repealed Eff. January 1, 2024.

17 NCAC 07B .2401 SALES OF MEDICAL SUPPLIES AND EQUIPMENT TO VETERINARIANS

(a) Veterinarians are the consumer of items, as the term item is defined in G.S. 105-164.3, that they use in rendering professional services. Retail sales to veterinarians of medical instruments, equipment, supplies, animal blood, and other tangible personal property used to test, diagnose, prevent, treat, or cure disease in animals are subject to sales or use tax, pursuant to G.S. 105-164.4, unless exempt in accordance with

Paragraph (d) or (e) of this Rule. Medical instruments and equipment include knives, needles, scissors, microscopes, X-ray machines, and other laboratory equipment. Medical supplies include cotton, gauze, adhesive tape, bandages, and other dressings.

(b) Retail sales of dietary pet food, vitamins, joint supplements, flea and tick treatments, soap, collars, toys, and identification tags used by a veterinarian in the treatment of an animal or in the course of rendering professional services are subject to sales and use tax, pursuant to G.S. 105-164.4, unless exempt in accordance with Paragraph (d) or (e) of this Rule.

(c) For purposes of G.S. 105-164.13(12), retail sales to veterinarians of durable medical equipment are subject to sales and use tax because the equipment is not sold pursuant to a prescription.

(d) Sales to veterinarians of drugs required by federal law to be dispensed only on prescription are exempt from sales and use tax, pursuant to G.S. 105-164.13(13).

(e) In accordance with G.S. 105-164.13E, sales of qualifying items to veterinarians to fulfill a service for a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate are exempt from sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-164.13E; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. July 1, 2000; August 1, 1996; April 1, 1995; October 1, 1993; October 1, 1991; August 1, 1986;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2603 ASPHALT PLANTS: CONCRETE PLANTS: WEIGH HOPPERS

Purchases of asphalt plants, concrete plants, weigh hoppers, or other equipment by real property contractors, retail-contractors, subcontractors, or other consumers to produce concrete or asphalt for use in fulfilling their contracts are subject to sales and use tax, pursuant to G.S. 105-164.4H.

History Note: Authority G.S. 105-164.4; 105-164.4H; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; December 1, 1984; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2604 SAND: DIRT: STONE

(a) Retail sales of sand, dirt, and stone to consumers, including real property contractors, retailer-contractors, or subcontractors for use in fulfilling their contracts, are subject to sales and use tax unless exempt in accordance with Paragraph (b) of this Rule.

(b) Pursuant to G.S. 105-164.13(3), sales of sand, dirt, and stone from mines are exempt from sales and use tax when sold in their original or unmanufactured state by the producer in the capacity of producer.

History Note: Authority G.S. 105-164.4; 105-164.4H; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2605 SANDBLAST SAND

Retail sales of sandblast sand to consumers, including real property contractors, retailer-contractors, or subcontractors for use in fulfilling their contracts, are subject to sales and use tax, pursuant to G.S. 105-164.4H.

History Note: Authority G.S. 105-164.4; 105-164.4H; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2701 SALES TO DENTISTS AND ORTHODONTISTS

(a) Dentists and orthodontists are the consumers of items, as the term item is defined in G.S. 105-164.3, that they use in rendering professional services. Retail sales to dentists and orthodontists of dental supplies, equipment, furnishings, and other tangible personal property that does not become part of a dental prostheses, are subject to sales and use tax, pursuant to G.S. 105-164.4. Retail sales to dentists and orthodontists of durable medical equipment for use in rendering professional services are subject to sales and use tax, pursuant to G.S. 105-164.4, when the durable medical equipment is not sold pursuant to a prescription.

(b) Pursuant to G.S. 105-164.13(12), sales to dentists and orthodontists of prosthetic devices for human use are exempt from sales and use tax. The term prosthetic device includes the following items when purchased to become a component part of a prosthetic device worn on or in the body: headgear, bows, neck straps, wires, bands, brackets, rubber bands, jackscrews, bonding agents used to attach the prosthetic device to teeth, and other similar tangible person property. A prosthetic device also includes a dental prosthesis. A dental prosthesis includes an artificial replacement of one or more teeth and bridges, crowns, and dentures.

(c) Pursuant to G.S. 105-164.13(13), sales to dentists and orthodontists of drugs required by federal law to be dispensed only on prescription are exempt from sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 1993; October 1, 1991; January 3, 1984; November 1, 1982;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2702 SALES TO DENTAL LABORATORIES

- (a) Sales to dental laboratories do not qualify for the exemption in G.S. 105-164.13(5e) and G.S. 105-164.13(8) unless they are identified in Paragraphs (b) or (c) of this Rule.
- (b) Pursuant to G.S. 105-164.13(8), sales to dental laboratories of tangible personal property that becomes a component part of a dental prosthesis manufactured by the dental laboratories are exempt from sales and use tax.
- (c) Pursuant to G.S. 105-164.13(5e), sales to dental laboratories of machinery, equipment, parts, or accessories used directly in manufacturing a dental prosthesis are exempt from sales and use tax.
- (d) Sales to contractors and subcontractors of machinery, equipment, parts, or accessories for use by them in the performance of contracts with dental laboratories are exempt from sales and use tax pursuant to G.S. 105-164.13(5e), if the machinery, equipment, parts, or accessories will be used by the dental laboratories directly in manufacturing dental prostheses.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. October 1, 1993; June 1, 1992; October 1, 1991; January 1, 1982;
Readopted Eff. January 1, 2024.

17 NCAC 07B .2801 FLORISTS: NURSERY AND GREENHOUSE OPERATORS

- (a) "Nursery Stock" means flowers, trees, potted plants, shrubbery, and other plants grown by nurseries and greenhouse operators.
- (b) Retail sales of nursery stock are subject to sales and use tax, unless exempt pursuant to Paragraph (f) of this Rule.
- (c) Retail sales of planters, hoses, nozzles and sprayers, rain barrels, sprinklers and timers, fertilizer, insect and weed control, garden tools, birdbaths, and other tangible personal property are subject to sales and use tax, pursuant to G.S. 105-164.4.
- (d) Producer of Nursery Stock. -- If a nursery or greenhouse operator is the producer of an article of nursery stock, the article is a product of a farm for the purposes of G.S. 105-164.13(4b). A nursery or greenhouse operator is the producer of nursery stock in either of the following circumstances:
 - (1) The operator owns the article and grows the article from seed, cutting, or other similar propagation.
 - (2) The operator purchases the article of nursery stock, does not sell the article during the planting season in which it was purchased, retains the article until at least the next planting season, and growth is added to the article by virtue of such retention.
- (e) Determining Primary Business. -- A producer shall determine whether it is primarily a retail merchant as follows:
 - (1) Determine the producer's total gross sales of products of a farm produced by the producer of nursery stock.

- (2) Determine the producer's total gross sales from sales not included in Subparagraph (1) of this Paragraph.
- (3) If the producer's gross sales determined in Subparagraph (2) of this Paragraph are greater than the gross sales determined in Subparagraph (1) of this Paragraph, the producer is primarily a retail merchant.
- (4) Producers that have more than one location shall determine if it is primarily a retail merchant for each location separately.
- (5) The total gross sales used to determine the classification as primarily a retail merchant shall include all sales without regard to any sales exempt from sales and use tax.
- (6) The classification shall remain in effect until the primary business determination has changed for a period of at least six months.

(f) Exempt Sales of Nursery Stock by a Producer. -- Nursery stock sold in its original state by the producer of the nursery stock is exempt from sales and use tax, pursuant to G.S. 105-164.13(4b), unless the producer is primarily a retail merchant.

(g) Sales by a Person that is Primarily a Retail Merchant. -- Pursuant to G.S. 105-164.4, a person that is primarily a retail merchant shall collect and remit sales and use tax on all retail sales of purchased and produced nursery stock.

(h) Real Property Contracts:

- (1) A person classified as primarily a retail merchant that withdraws nursery stock from their inventory to fulfill a real property contract to perform landscaping shall pay use tax on the nursery stock.
- (2) A producer not classified as primarily a retail merchant that withdraws nursery stock from their inventory to fulfill a real property contract to perform landscaping does not owe use tax if they are the producer of the nursery stock. If the person is not the producer of the nursery stock, the person shall pay use tax on the nursery stock.

(i) Record Keeping for Producers. -- Producers that make exempt sales and taxable sales shall maintain separate records of each. Failure to keep separate records in a manner that can be accurately and conveniently checked by the agents of the Secretary of Revenue subjects all sales to sales and use tax, pursuant to G.S. 105-164.4.

(j) Exempt Purchases. -- A nursery or greenhouse operator, including an operator that is primarily a retail merchant, that meets the requirements of a qualifying or conditional farmer is eligible for the exemption provided in G.S. 105-164.13E.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4H; 105-164.6; 105-164.13; 105-164.13E; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. June 1, 2006; July 1, 2000; October 1, 1993; June 1, 1992; October 1, 1991;
March 1, 1987;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2802 FLORIST WIRE SALES

- (a) Pursuant to G.S. 105-164.4B, a florist wire sale is a sale in which a retail florist takes a customer's order and transmits the order to another retail florist to be filled and delivered.
- (b) A retail florist in North Carolina that accepts a customer's order as part of a florist wire sale and transmits the order to another retail florist located inside or outside North Carolina shall collect and remit sales tax on the sales price of the order. The sales price of a florist wire sale includes charges for delivery, relay charges, and charges for other services. Charges are a part of the sales price regardless of whether the florist keeps the charges or forwards them to other florists through a florist delivery association or other person. The sales price is subject to sales and use tax even if the florist separately states the charges on an invoice or other similar billing document given to the purchaser at the time of sale.
- (c) A retail florist in North Carolina that receives a florist wire sale from another retail florist located inside or outside North Carolina is not liable for sales tax on the receipts derived from the transactions, pursuant to G.S. 105-164.4B(d)(3).

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.4B; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. June 1, 2006; April 1, 1999; October 1, 1993; October 1, 1991; March 1, 1987;

Readopted Eff. January 1, 2024.

17 NCAC 07B .2901 SALES THROUGH VENDING MACHINES

- (a) Requirement. -- A person who sells tangible personal property through a vending machine is a retailer and shall register with the Department in accordance with 17 NCAC 07B .0104, and remit sales and use tax on the sales price of the items sold.
- (b) Sales Price Subject to Tax. -- Pursuant to G.S. 105-164.13(50), tobacco products and newspapers sold through a vending machine are taxed on 100 percent of the sales price for which the property is sold. Other tangible personal property sold through a coin-operated vending machine are taxed on 50 percent of their sales price. All items sold through a vending machine that is not coin-operated are taxed on 100 percent of the sales price for which the property is sold.
- (c) Failure of a retailer to keep records that establish which vending machine sales are taxable at 50 percent of the sales price subjects the retailer to liability of 100 percent of the sales price for sale tax on the sale.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. April 1, 2006; July 1, 2000; October 1, 1993; June 1, 1992; July 1, 1989;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3004 USED PROPERTY

- (a) General. -- Taxable sales are not limited to sales of newly manufactured items. The fact that property is used or secondhand does not exempt it from sales or use tax, pursuant to G.S. 105-164.4.
- (b) Retail sales of used tangible personal property are subject to sales or use tax, except as provided in 17 NCAC 07B .3002 or other statutory exemption.
- (c) Purchases. -- Property is considered purchased, and subject to sales and use tax pursuant to G.S. 105-164.4, when a retailer acquires property in any of the following circumstances:
- (1) the retailer reacquires property that is collateral for a nonrecourse endorsement given by the retailer to a financial institution; or
 - (2) the retailer accepts used, secondhand, or other property in lieu of other consideration.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. July 1, 2000; October 1, 1993; October 1, 1991; January 3, 1984;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3009 TRANSFER OF INVENTORY HELD FOR RESALE TO NEW BUSINESS

- (a) When a business acquires another business or converts to a new type of entity, such as through a change in ownership or entity type, and the inventory held for resale of the previous business is sold or transferred to the new business for resale, sales and use tax is not due on the transaction. The new business is liable for collecting and remitting sales and use tax on its retail sales of items, as the term item is defined in G.S. 105-164.3, acquired from the previous business, including any articles repossessed by the previous business that would be exempt from tax under G.S. 105-164.13(16) if they had been resold by the previous business.
- (b) When one or more corporations merge into a surviving or other corporation pursuant to the provisions of G.S. 55-11-01, and the inventory held for resale by the predecessor corporation is transferred to a surviving or other corporation for resale, sales and use tax is not due on the transaction. When one or more corporations merge into a surviving or other corporation the exemption from sales and use tax for articles repossessed by a predecessor corporation is applicable to the sale of the repossessed articles when they are sold by the surviving or other corporation.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. July 1, 2000; October 1, 1993; October 1, 1991; November 1, 1982;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3106 CABLE SERVICE PROVIDERS

(a) For purposes of this Rule, cable service provider means a cable television company that:

- (1) receives payment or other consideration from its subscribers for cable service;
- (2) uses broadcasting equipment, parts and accessories attached to the equipment, and a tower to receive and prepare signals for transmission over its cable systems; and
- (3) is regulated and supervised by the Federal Communications Commission.

(b) Pursuant to G.S. 105-164.13(5d), purchases of broadcasting equipment and parts and accessories attached to the equipment by a cable service provider are exempt from sales and use tax. Examples of exempt broadcasting equipment include towers and antenna. Broadcasting equipment does not include cable for purposes of the exemption.

(c) Pursuant to G.S. 105-164.13(22), the lease or rental of motion picture films, transcriptions, and recordings by cable service providers that operate under the regulation and supervision of the Federal Communications Commission are exempt from sales and use tax.

(d) Pursuant to G.S. 105-164.13(43a), purchases of computer software by cable service providers, that is used to provide ancillary service, cable service, Internet access service, telecommunications service, or video programming, is exempt from sales and use tax.

(e) Purchases of other tangible personal property by cable services providers, including antenna cable, transmission cable, trunk, feeder and drop cable, are subject to sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. March 1, 1984;

Amended Eff. August 1, 2009; April 1, 1997; October 1, 1993; October 1, 1991; August 1, 1986; December 1, 1984;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3107 PRODUCTION COMPANIES

(a) For purposes of G.S. 105-164.13, purchases by a production company, as defined in G.S. 105-164.3, of items including cameras, machinery, equipment, film, and props or building materials used in the construction of sets are purchased for use, not resale, except as provided in Paragraph (b) of this Rule. These items are also not mill machinery, or mill machinery parts or accessories.

(b) Pursuant to G.S. 105-164.13, purchases of film by a production company that becomes an ingredient or a component part of release prints that are actually produced and sold, leased, or rented to its customers are exempt from sales and use tax. Purchases of chemicals used to develop release prints for sale, lease, or rental that become an ingredient or a component part of the release prints are exempt from sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.13; 105-262; 105-264;

Eff. June 1, 1992;

Amended Eff. October 1, 2009; October 1, 1993;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3301 EXEMPT PROSTHETIC DEVICES

(a) Medical Prosthetic Devices. -- Pursuant to G.S. 105-164.13(12), sales of prosthetic devices as defined in G.S. 105-164.3, for human use are exempt from sales and use tax. Prosthetic devices for human use are exempt from sales and use tax whether or not the prosthetic device is sold on prescription. Examples of medical prosthetic devices that qualify for the exemption in G.S. 105-164.13(12) include the following:

- (1) Abdominal belts of the brace type.
- (2) Abdominal binders and supports.
- (3) Access ports.
- (4) Acetabular cups as part of a hip implant.
- (5) Ankle braces.
- (6) Anti-embolism stockings
- (7) Arch supports.
- (8) Artificial eyes.
- (9) Artificial heart valves.
- (10) Artificial larynx.
- (11) Artificial limbs.
- (12) Atrial valves.
- (13) Back braces.
- (14) Bone cement and wax.
- (15) Bone growth stimulators – implanted.
- (16) Bone pins, plates, nails, screws.
- (17) Braces.
- (18) Breast implants.
- (19) Breast prosthesis – external
- (20) Continuous positive airway pressure (CPAP) – worn.
- (21) Casts and casting materials.
- (22) Catheters – excluding suction catheters and similar catheters.
- (23) Cervical collars.
- (24) Cochlear implants.
- (25) Non-Injectable Collagen.
- (26) Contact lenses.
- (27) Corrective eyeglasses.
- (28) Defibrillator and leads – implanted.
- (29) Dental prosthesis.
- (30) Dialysis catheters – hemodialysis.
- (31) Dialysis catheters – peritoneal.
- (32) Drainage catheters.
- (33) Drainage catheters – urinary.
- (34) Drainage drains.
- (35) Drainage shunts.
- (36) Ear, nose, and throat implants.
- (37) Feeding catheters.
- (38) Foley catheters.
- (39) Gastric bands.
- (40) Gastrostomy kits.
- (41) Grafts.
- (42) Hands and feet implants.
- (43) Head halters.
- (44) Hearing aids and hearing aid batteries.

- (45) Hip and knee implants.
- (46) Humid vents for tracheostomies.
- (47) Implanted expander – tissue and breast.
- (48) Infuser pumps – worn.
- (49) Infusion sets for external insulin pumps.
- (50) Insulin pumps.
- (51) Intragastric balloons.
- (52) Knee immobilizers.
- (53) Mastectomy surgical bras
- (54) Maxillofacial devices – implanted.
- (55) Membranes implants.
- (56) Nasal cannulas.
- (57) Nerve stimulators – implanted with leads.
- (58) Obturators for cleft palates.
- (59) Ocular implants.
- (60) Orbital implants.
- (61) Orthobiologics implants.
- (62) Orthopedic shoes, shoe lifts, inserts, arch supports, heel protectors.
- (63) Ostomy – adhesives.
- (64) Ostomy – barriers, including wafer, seal ring, protective film, paste, stomahesive,
- (65) Ostomy – catheters.
- (66) Ostomy – collection leg bags and pouches.
- (67) Ostomy – drain tubes and valves.
- (68) Pacemakers and leads.
- (69) Pacemakers – not implanted
- (70) Penile pumps.
- (71) Pressure garments.
- (72) Programmable drug infusion devices.
- (73) Salem sump with anti-reflux valves.
- (74) Seprafilm.
- (75) Shoes – post operative.
- (76) Shoulder and elbow implants.
- (77) Skin implants – synthetic.
- (78) Sleeves – compression; excluding compression clothing for athletic purposes.
- (79) Slings.
- (80) Speech aids – worn electronic units.
- (81) Sphincters.
- (82) Splint and splint materials.
- (83) Staples, sutures and suture alternatives.
- (84) Stents – implanted in body.
- (85) Stockings – compression; excluding compression clothing for athletic purposes.
- (86) Stump shrinkers.
- (87) Supports – dorsolumbar, lumbosacral, maternity, post-operative, or sacroiliac.
- (88) Surgical mesh implants.
- (89) Suspensories.
- (90) Tendon implants.
- (91) Testicular and penile implants.
- (92) Trachea tubes.
- (93) Tracheostomy inner cannulas.
- (94) Tracheostomy speaking valves.
- (95) Traction devices – worn on the body.
- (96) Transcutaneous electrical nerve (TENS) units – worn.
- (97) Trusses.

- (98) Tubes of the following types that are implanted in the body: tracheotomy or laryngectomy.

- (99) Vena cava filters.

(b) Dental Prosthetic Devices. -- Pursuant to G.S. 105-164.13(12), sales of dental prosthetic devices are exempt from sales and use tax. The term prosthetic device includes headgear, bows, neck straps, wires, bands, brackets, rubber bands, jackscrews, bonding agents used to attach prosthetic devices to teeth, and other appliances when purchased by orthodontists to assemble into various types of appliances to be worn on or in the body. Dental prosthesis also includes an artificial replacement of one or more teeth and includes bridges, crowns, and dentures.

(c) Records. -- A retailer that sells prosthetic devices for human use shall keep sales records that clearly identify the prosthetic device, repair or replacement parts, and all other items included in the sales price of the device. Failure of a retailer to keep records that establish a sale of a prosthetic device is exempt from sales and use tax subjects the retailer to sale and use tax on the sale.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 2009; April 1, 1999; August 1, 1998; October 1, 1993; October 1, 1991; July 1, 1989; February 1, 1986;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3302 EXEMPT DURABLE MEDICAL EQUIPMENT AND DURABLE MEDICAL SUPPLIES

(a) Durable Medical Equipment. -- Pursuant to G.S. 105-164.13(12), sales of durable medical equipment as the term is defined in G.S. 105-164.3 are exempt from sales and use tax, when sold on prescription.

(b) Durable Medical Supplies. -- Pursuant to G.S. 105-164.13(12), sales of durable medical supplies as the term is defined in G.S. 105-164.3 are exempt from sales and use tax, when sold on prescription. Examples of durable medical equipment and durable medical supplies that qualify for the exemption in G.S. 105-164.13(12) include the following:

- (1) Abduction, cervical, and orthotic pillows.
- (2) Ambu resuscitators (reusable).
- (3) Anesthesia machines.
- (4) Anesthesia ventilators.
- (5) Anti-thrombolytic pumps.
- (6) Apnea monitors.
- (7) Aqua K pumps and pads.
- (8) Audiology equipment – diagnostic.
- (9) Automatic external defibrillators.
- (10) Autotransfusion equipment.
- (11) Bed – kodel pads.
- (12) Beds – alternating pressure pads.
- (13) Beds – blanket cradles.
- (14) Beds – hospital beds – bassinets.
- (15) Beds – hospital beds – beds and accessories/repair parts.

- | | |
|--|--|
| (16) Beds – incubators/isolettes. | (65) Nebulizers. |
| (17) Beds – specialty care. | (66) Needleless drug delivery system – reusable – such as injection guns. |
| (18) Billie lights. | (67) Nerve stimulators – programmers. |
| (19) Blood pressure equipment – diagnostic. | (68) Ophthalmoscopes. |
| (20) Bone growth stimulators – external – not worn. | (69) Ostomy irrigation sets. |
| (21) Cardiology equipment – diagnostic. | (70) Otoscopes. |
| (22) Cardiopulmonary bypass machines. | (71) Overbed tables and trays. |
| (23) Cauterization equipment. | (72) Oxygen delivery – Oxygen concentrators; oxygen regulators; oxygen systems, whether liquid or gas. |
| (24) Chair scales. | (73) Oxygen tents/beds. |
| (25) Cofflators. | (74) Pacemakers – not implanted – not worn. |
| (26) Collection basins – urinals, bedpans, etc. | (75) Pacemaker transmitters. |
| (27) Commode chairs. | (76) Paraffin bath units. |
| (28) Commodes. | (77) Parenteral – feeding bags – disposable. |
| (29) Compressors and other air power sources for a device in this list or for use in administering medication. | (78) Parenteral – feeding connectors. |
| (30) Continuous passive motion devices. | (79) Parenteral – feeding tubing. |
| (31) Continuous positive airway pressure (CPAP) devices – not worn. | (80) Parenteral pumps and intravenous (IV) stands. |
| (32) Crash carts – stocked. | (81) Patient positioners, including prone or side-lying positioners. |
| (33) Dialyzers – single patient – multiple use. | (82) Percussors. |
| (34) EEG. | (83) Platelet separators. |
| (35) Enteral – feeding bags – disposable. | (84) Pressure reduction therapy beds. |
| (36) Enteral – feeding connectors. | (85) Programmable drug infusion pumps. |
| (37) Enteral – feeding tubing. | (86) Radiology equipment – diagnostic. |
| (38) Enteral pumps and intravenous (IV) stands. | (87) Respiratory bags – resuscitation. |
| (39) Exam tables. | (88) Respiratory equipment – arterial blood gas (ABG) machines, blood gas analyzer. |
| (40) External insulin pumps; adaptors, piston rods, and batteries for the pumps - not worn. | (89) Respiratory equipment – not oxygen delivery – such as sensors or analyzers. |
| (41) Feeding plugs. | (90) Respiratory-pulse oximetry equipment. |
| (42) Fever thermometers – reusable. | (91) Resuscitators – reusable. |
| (43) Glucose meters – not worn. | (92) Scopes and lasers – endoscope. |
| (44) Heat lamps – medical purposes. | (93) Sling scales. |
| (45) Heated humidifier systems. | (94) Speech aids – non-worn electronic. |
| (46) Heating pads. | (95) Staplers – empty – reusable. |
| (47) Humidifiers. | (96) Stethoscopes. |
| (48) Implantable cardioverter defibrillator (ICD) /Pacemaker Programmers. | (97) Stirrups. |
| (49) Infra-red lamps and bulbs. | (98) Stretchers. |
| (50) Infusion pumps, whether parenteral or another type - reusable. | (99) Suction pumps. |
| (51) Intermittent positive pressure breathing (IPPB) machines. | (100) Suction regulators. |
| (52) Intraaortic balloon pump (IABP). | (101) Surgical laser devices. |
| (53) Intravenous (IV) stands. | (102) Tourniquets – non-pneumatic. |
| (54) Intravenous (IV) poles. | (103) Tourniquets – pneumatic. |
| (55) Intravenous (IV) therapy arm boards – reusable. | (104) Traction equipment. |
| (56) Kidney dialysis machines and associates parts. | (105) Transcutaneous electrical nerve stimulator (TENS) units – not worn. |
| (57) Kinetic therapy beds. | (106) Ultrasound equipment. |
| (58) Lithotripters. | (107) Ultraviolet lights. |
| (59) Mammography equipment – diagnostic. | (108) Vaporizers. |
| (60) Mattresses, whether spring, foam, or pressure. | (109) Ventilators. |
| (61) Medical atomizers – reusable. | (110) Wheelchair cushions - brace/support. |
| (62) Medical instruments – reusable. | (111) Whirlpools - portable, over-the-tub type devices specifically manufactured for a medical purpose. |
| (63) Monitors – stationary. | (112) X-ray equipment. |
| (64) Magnetic resonance imaging (MRI)/
Computed tomography (CT) | (c) Records. -- A retailer that sells durable medical equipment or durable medical supplies, pursuant to a prescription, shall |

keep sales records that clearly identify the sales price, the prescription, and the durable medical equipment or supplies. The retailer shall keep the original prescription for inspection by the Secretary or an agent of the Secretary. Failure of a retailer to keep records that establish that a sale of durable medical equipment or durable medical supplies is exempt from sales and use tax subjects the retailer to sales and use tax on the sale.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. October 1, 2009; April 1, 1999; August 1, 1998; October 1, 1993; June 1, 1992; October 1, 1991; February 1, 1986;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3801 PROMOTIONAL ITEMS AND GIFTS

(a) Purchases by a person of items, as the term item is defined in G.S. 105-164.3, for use by the person as promotional items or gifts are not purchases for resale and are subject to sales or use tax, pursuant to G.S. 105-164.4. If the seller does not collect the North Carolina sales and use tax on such sales, the purchaser shall remit the use tax, pursuant to G.S. 105-164.6, directly to the Department.

(b) Purchases by a person of items for use in satisfying a customer's redemption of reward points or items earned by the customer through a rewards program are not purchases for resale and are subject to sales or use tax, pursuant to G.S. 105-164.4. If the seller does not collect North Carolina sales and use tax on such sales, the purchaser shall remit the use tax, pursuant to G.S. 105-164.6, directly to the Department.

(c) If the item purchased is of the type or character customarily sold by a retailer, the retailer may purchase the item without payment of the sales tax as a purchase for resale when the retailer complies with 17 NCAC 07B .0106. The retailer shall remit the use tax, pursuant to G.S. 105-164.6, to the Department on all taxable items withdrawn from inventory and used as promotional items or gifts.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.28; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. August 1, 2009; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3804 GIFT CERTIFICATES AND GIFT CARDS

Charges for gift certificates or gift cards are not subject to sales and use tax, pursuant to G.S. 105-164.4, at the time of initial sale for the gift certificate or gift card. When the holder of a gift certificate or gift card redeems the gift certificate or gift card for items, as the term item is defined in G.S. 105-164.3, the transaction is subject to the same sales and use taxes applicable

to the item as if it were purchased without a gift certificate or gift card.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3907 DEPOSITS FOR REUSABLE CONTAINERS

(a) Pursuant to G.S. 105-164.13(47), deposits charged by a retailer or wholesale merchant for a beverage container that is returnable to the retailer or wholesale merchant for reuse when the amount charged is refundable or creditable to the purchaser are not subject to sales and use tax, whether or not the deposit is separately stated on the invoice or similar billing document.

(b) Deposits charged by a retailer or wholesale merchant for reusable containers, other than beverage containers, are subject to sales and use tax, pursuant to G.S. 105-164.4, when the purchaser of the property packaged within a reusable container exercises control over the container as is ordinarily associated with ownership, while the container is in their possession. Such amounts are a part of the sales price even though designated as a deposit for the containers.

(c) When a retailer or wholesale merchant retains title to reusable containers and the right to control the use the purchaser makes of the containers, the containers are not considered to be a part of the sale of the property packaged within the reusable container. In such cases, amounts charged to the purchasers as security for the return of the containers are not subject to sales and use tax, pursuant to G.S. 105-164.13(23), if such charges are shown separately from the sales price of the property on the invoice or similar billing document given to the purchaser at the time of sale. If such amounts are not separately stated on the invoice or similar billing document given to the purchaser at the time of sale, the total charge is subject to sales and use tax.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. August 1, 2002; January 1, 1982; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .3910 RETURNABLE CONTAINERS

Pursuant to G.S. 105-164.13(23), when a person sells tangible personal property in returnable containers without charging for the use of the containers for a specified time but, at the expiration of the specified time, the containers enter a period of overdue detention and a penalty is charged to encourage the return of the containers, the charge is not subject to sales and use tax.

History Note: Authority G.S. 105-164.4; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-

498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. August 1, 1998;
Readopted Eff. January 1, 2024.

17 NCAC 07B .4102 SALES OF PHOTOGRAPHS AND VIDEOS

(a) Photographs. -- The sales price of photographs, whether the photographs are transferred electronically or as tangible personal property, are subject to the sales and use tax, pursuant to G.S. 105-164.4. The sales price of photographs include sitting fees charged to a customer who ultimately purchases photographs, and all charges for developing or printing. When transferred electronically, the sale of a photograph includes a photograph provided by email, electronic storage device, access through a website owned by the photographer, access through a website owned by a third-party, or by other electronic means.

A copyright fee that entitles a purchaser the right to reproduce a photograph does not constitute part of the sales price of the photograph and is not subject to sales and use tax when the charge is separately stated.

(b) Videos. -- The sales price of videos, whether the videos are transferred electronically or as tangible personal property, are subject to sales and use tax, pursuant to G.S. 105-164.4. When transferred electronically, the sale of a video includes a video provided by email, electronic storage device, access through a website owned by the videographer, access through a website owned by a third-party, or by other electronic means.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. September 1, 2006; October 1, 1993; October 1, 1991;
Readopted Eff. January 1, 2024.

17 NCAC 07B .4105 PHOTO SUPPLIES AND MATERIALS

(a) Sales of items, as the term item is defined in G.S. 105-164.3, such as frames, films, storage media, and other articles by photographers, photo finishers, videographers, or others are retail sales subject to sales and use tax, pursuant to G.S. 105-164.4.

(b) Purchases of items by a commercial or portrait photographer or videographer for use or consumption are subject to sales and use tax, pursuant to G.S. 105-164.4. However, pursuant to G.S. 105-164.13(5), purchases by commercial or portrait photographers of items including mounts, frames, and paper, which become an ingredient or component part of the finished product are not subject to the sales and use tax when purchased for resale.

(c) Pursuant to G.S. 105-164.13(5e), purchases by a commercial or portrait photographers of mill machinery or mill machinery parts or accessories such as films, chemicals, proof paper, cameras, trays, and similar items are exempt from the sales and use tax when the mill machinery or mill machinery parts or

accessories are for use in the "production" phase of the manufacturing of photographs. For purposes of this Rule, "Production" as a phase of industrial or manufacturing operations shall mean all steps performed in processing and refining rooms, and in other quarters and departments of a plant, where conditioning, treating, or other operations are done on ingredient materials as an actual routine on the assembly or processing line turning out a finished product of manufacture for sale. The "Production" phase also includes the following:

- (1) The movement of raw materials or ingredients from an inventory or a stockpile located on the premises of the manufacturing facility to the assembly or processing line.
- (2) The movement of goods in process along the assembly or processing line.
- (3) The movement of manufactured products from the assembly or processing line into shipping or storage areas and yards located on the premises of the manufacturing facility.
- (4) The work of experimentation and research performed on the manufactured products.

"Production" does not include any activity connected with the movement of raw materials or ingredients into inventory nor does it include "distribution" which is any activity connected with the movement of manufactured products within storage warehouses, shipping rooms, and other such finished product storage areas and the removal of such products therefrom for sale or shipment, or "administration" which is any administrative work of offices, promotion of sales, and collection of accounts.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. September 1, 2006; October 1, 1993; October 1, 1991;
Readopted Eff. January 1, 2024.

17 NCAC 07B .4106 PHOTOENGRAVINGS: ELECTROTYPES: ETC.

(a) Pursuant to G.S. 105-164.13(5), purchases by commercial printers and publishers of an item, as the term item is defined in G.S. 105-164.3, including photoengravings, electrotypes and lithographs used in the "production" phase, as production is defined in 17 NCAC 07B .4105, to produce items for sale, are exempt from sales and use tax. Lithographic and gravure plates and dies, including custom made plates and dies and tangible personal property used to fabricate plates and dies for use in the "production" of printed matter for sale, are exempt from sales and use tax, pursuant to G.S. 105-164.13(5), when title to the plates and dies do not pass to the printers' customers.

(b) Purchases of photoengravings, electrotypes, lithographs, paper, ink, and all other printing equipment and supplies by consumers or in-house printers are not for resale and are subject to the sales and use tax, pursuant to G.S. 105-164.4.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483;

105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;
Eff. February 1, 1976;
Amended Eff. September 1, 2006; October 1, 1993; October 1, 1991;
Readopted Eff. January 1, 2024.

17 NCAC 07B .4205 FEDERAL CREDIT UNIONS AND THE FARM CREDIT SYSTEM

(a) Federal Credit Unions. -- Sales to, or purchases by, federal credit unions organized under the Federal Credit Union Act, 12 U.S.C. 1751 et seq., are exempt from North Carolina sales and use tax, pursuant to G.S. 105-164.13(17).
 (b) The Farm Credit System. -- Sales to, or purchases by, the farm credit system, as composed in 12 U.S.C. 2002, are exempt from North Carolina sales and use tax, pursuant to G.S. 105-164.13(17). The farm credit system includes Farm Credit Banks, the bank for cooperatives, Agricultural Credit Banks, the Federal Land Bank Associations, the Federal Land Credit Associations, the Production Credit Associations, the agricultural credit associations, the Federal Farm Credit Banks Funding Corporation, the Federal Agricultural Mortgage Corporation, service corporations established pursuant to 12 U.S.C. 2211, and such other institutions as may be made part of the farm credit system, all of which shall be chartered by and subject to regulation by the Farm Credit Administration.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.13; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538; 12 U.S.C. 1768; 12 U.S.C. 2023; 12 U.S.C. 2077; 12 U.S.C. 2098; 12 U.S.C. 2134; 12 U.S.C. 2214;
Eff. February 1, 1976;
Amended Eff. September 1, 2006; November 1, 1995; January 1, 1995; January 3, 1984;
Readopted Eff. January 1, 2024.

17 NCAC 07B .4301 REFUNDS TO INTERSTATE CARRIERS

(a) Scope. -- This Rule explains the sales and use tax refund allowed to interstate carriers under G.S. 105-164.14(a). Taxes listed in 17 NCAC 07B .1602(f) are not eligible for refund as exceeding the scope of G.S. 105-164.14(a).

(b) Eligible Items. -- The items eligible for refund are railway cars and locomotives, and fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for a motor vehicle, railroad car, locomotive, or airplane the carrier operates. Other items eligible for refund when purchased by an interstate carrier for a motor vehicle, railroad car, locomotive, or airplane it operates include:

- (1) antennas;
- (2) antifreeze;
- (3) bedding for motor vehicle sleeping compartments;
- (4) charts for tachographs;
- (5) decals for motor vehicles;
- (6) emergency flares and reflectors;
- (7) fire extinguishers;

- (8) freon or nitrogen used in refrigerating and cooling motor vehicles;
- (9) furniture pads;
- (10) lifeboats and oxygen masks;
- (11) load jacks and chains;
- (12) mobile CB radios;
- (13) motor vehicle seat cushions;
- (14) paints for decals;
- (15) polyethylene liners used to waterproof trailers;
- (16) pouches for registration cards and permits;
- (17) radios;
- (18) ramp equipment used to embark or disembark aircraft;
- (19) ropes and chains to tie down cargo (adapted for use on motor vehicles; otherwise not allowed);
- (20) signs attached to trucks;
- (21) tarpaulins;
- (22) tire chains;
- (23) tire and tubes;
- (24) welding rods for repair of motor vehicles;
- (25) windshield solvents; or
- (26) zipped covers for grills.

(c) Items not Eligible. -- The following items not eligible for refund under G.S. 105-164.14(a) include:

- (1) certain digital property, as defined in G.S. 105-164.3;
- (2) drivers' gloves;
- (3) drivers' uniforms;
- (4) food trays on airplanes;
- (5) fork lift tires and parts;
- (6) gauges for testing equipment;
- (7) hand trucks;
- (8) pallets;
- (9) pillows on airplanes;
- (10) piped natural gas;
- (11) security seals;
- (12) tire volume discounts;
- (13) tools, shop supplies;
- (14) trip logs; or
- (15) wax and washing supplies.

(d) Amount of Refund. -- G.S. 105-164.14(a) sets out the formula for computing the amount of a refund. Under the formula, an interstate carrier may receive a refund for a percentage of the tax paid on eligible items.

(e) Due date of Claim for Refund. -- An interstate carrier claim for refund shall be filed quarterly on Form E-581, Interstate Carrier Claim for Refund State, County, and Transit Sales and Use Taxes. A claim is due within 60 days from the close of each calendar quarter ending in March, June, September, and December of each year covering the purchases or acquisitions during the preceding quarter.

(f) Form E-581, requires the following information:

- (1) name and address of entity requesting the refund;
- (2) Federal Employer Identification Number;
- (3) North Carolina sales and use tax account number;
- (4) refund period beginning and ending dates;

- (5) contact person name and telephone number;
- (6) name(s) of the taxing county;
- (7) total miles of operation;
- (8) total miles operated in North Carolina;
- (9) the ratio of miles operated in North Carolina;
- (10) total eligible purchases inside and outside North Carolina, not including sales tax paid;
- (12) purchases per mile ratio;
- (13) state sales and use tax paid on eligible purchases;
- (14) state sales and use tax on purchases per mile ratio;
- (15) amount of state sales and use tax refund;
- (16) the ratio of county and transit sales and use tax refund;
- (17) county and transit sales and use tax paid on eligible purchases;
- (18) amount of county and transit sales and use tax refund;
- (19) total refund amount requested;
- (20) signature of person authorized to legally bind entity and date form signed.

(g) Aviation Gasoline and Jet Fuel. -- An interstate carrier's claim for refund for taxes paid at the combined general rate pursuant to G.S. 105-164.4(a)(15), shall be filed quarterly on Form E-581A, Interstate Carrier Claim for Refund Combined General Rate Sales and Use Taxes. A claim is due within 60 days from the close of each calendar quarter ending in March, June, September, and December of each year covering the purchases or acquisitions during the preceding quarter.

(h) Form E-581A, requires the following information:

- (1) name and address of entity requesting the refund;
- (2) Federal Employer Identification Number;
- (3) North Carolina sales and use tax account number;
- (4) refund period beginning and ending dates;
- (5) contact person name and telephone number;
- (6) total miles of operation;
- (7) total miles operated in North Carolina;
- (8) ratio of miles operated in North Carolina;
- (9) total North Carolina combined general rate of sales and use tax paid on all purchases of aviation gasoline and jet fuel;
- (10) total refund amount requested;
- (11) signature of person authorized to legally bind entity and date form signed.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.14; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. September 1, 2006; July 1, 2000; August 1, 1998; August 1, 1996; October 1, 1993; July 1, 1990; February 1, 1987; March 1, 1984;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4302 REFUNDS TO RAILROAD COMPANIES

(a) In General. -- Railroad companies, when applying for refunds pursuant to G.S. 105-164.14(a), shall comply with application frequency and form requirements set out in 17 NCAC 07B .4301.

(b) Railcars Not Owned by Refund Applicant -- A refund applicant's total eligible purchases shall include the repair of railroad cars used by, but not owned by the applicant regardless of the fact that the applicant may bill the owner of the railcars for repairs performed on such railroad cars. The miles that a railcar not owned by the applicant travel over the rail lines of the applicant shall be included in establishing the number of miles of operation in this State and the total number of miles of operation inside and outside this State for the calendar quarter.

(c) Railcars Owned by Refund Applicant. -- A refund applicant's total eligible purchases shall exclude repairs to railroad cars owned by the applicant, but operating on rail lines of another railroad company, regardless of the fact that the other railroad company may bill the applicant for repair parts used to maintain the applicant's railroad cars when in operation over the other railroad's rail lines. Additionally, an applicant's total eligible purchases shall exclude fuel, lubricants, repair parts, accessories, service contracts, and repair, maintenance, and installation services for which the applicant is billed by another railroad company when its railroad cars are traveling over the other railroad's rail lines.

(d) Locomotives. -- The provisions of this Rule shall also apply to locomotives.

History Note: Authority G.S. 105-164.14; 105-262; 105-264; Eff. February 1, 1976;

Amended Eff. October 1, 1993;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4401 LEASE RECEIPTS

(a) Rate of Tax. -- Pursuant to G.S. 105-164.4, the gross receipts derived from the lease or rental of tangible personal property are subject to the sales or use tax at the same rates, including any maximum tax, that apply to the retail sale of such property. The maximum tax, if applicable, shall be determined for each lease or rental of tangible personal property, not on the aggregate tax for all leases or rentals of the leased tangible personal property.

(b) Computation of Tax. -- A person shall compute and pay tax on the gross receipts without any deduction.

(c) Due Date. -- The tax is due and payable at the time the lessor or retailer bills the lessee for rent whether such billing is for the lump sum rental or on a monthly or other periodic basis.

(d) Sale of Leased Tangible Personal Property. -- A retailer who leases or rents tangible personal property shall also collect the tax on the separate retail sale of the tangible personal property.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264;

Eff. February 1, 1976;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4403 MAINTENANCE OF LEASED PROPERTY

(a) Purchases of tangible personal property used to repair or maintain tangible personal property held for lease or rent are wholesale sales pursuant to G.S. 105-164.3(281) provided that the purchased property becomes part of the tangible personal property for lease or rent and the purchase is made by a person engaged in the business of leasing and renting the tangible personal property held for lease or rent. Pursuant to G.S. 105-164.13(5), these wholesale sales are not subject to tax when the purchaser complies with 17 NCAC 07B .0106.

(b) Sales of repair, maintenance, and installation services used to repair, recondition, or maintain tangible personal property held by the purchaser for lease or rental are wholesale sales pursuant to G.S. 105-164.3(281) and are exempt from tax pursuant to G.S. 105-164.13(5) when the purchaser complies with 17 NCAC 07B .0106.

(c) Except as provided in Paragraphs (a) and (b), a lessor is responsible for payment of the sales and use tax, pursuant to G.S. 105-164.4. Examples of tangible personal property that a lessor is liable for sales and use tax upon purchase includes, tools, shop supplies, and other tangible personal property that are used to repair tangible personal property held for lease or rental that do not become part of the tangible personal property held for lease or rental.

(d) When a lessee purchases tangible personal property for repair, maintenance, and installation services, to repair or maintain items leased or rented, the lessee is liable for payment of the sales and use tax on the purchase price.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; June 1, 1992; October 1, 1991; March 1, 1984;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4406 INSURANCE ON LEASED PROPERTY

(a) Insurance Obtained by Lessor. -- The gross receipts derived from the lease or rental of tangible personal property for storage, use, or consumption within this State are subject to sales and use tax, pursuant to G.S. 105-164.4. The tax shall be computed on the gross receipts without deduction for any insurance charges paid to insure the property of the lessor or to insure the lessor against liability for damages to the property or person of others.

(b) Insurance Obtained by Lessee. -- Insurance premiums paid by the lessee directly to the insurer, or to the lessor as agent for transmittal to the insurer, are not subject to sales and use tax as imposed by G.S. 105-164.4, when a lessee purchases insurance on the lessee's own property or to insure themselves against liability for damages to the property or person of others. Insurance premiums paid directly by the lessee to the lessor as agent for transmittal to the insurer shall be separately stated from the lease or rental charges for the tangible personal property in the lessor's records and on the invoice, or similar billing document, given to the lessee; otherwise, pursuant to G.S. 105-

164.22, the total amount charged by the lessor is subject to sales and use tax.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-164.22; 105-262; 105-264; 105-467; 105-468; 105-469; 105-483; 105-498; 105-507.2; 105-509.1; 105-510.1; 105-511.3; 105-537; 105-538;

Eff. February 1, 1976;

Amended Eff. May 1, 2009; October 1, 1993; October 1, 1991; July 5, 1980;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4411 EXTENSION OF LEASES SUBJECT TO A MAXIMUM TAX

When a maximum tax, pursuant to G.S. 105-164.4 105-164.6, or 105-164.27A would apply to the sale of tangible personal property and the tangible person property is leased for a definite stipulated period of time, the lease payments during the lease period are subject to the maximum tax.

(1) Extension Provisions in Lease. -- If the original lease contains provisions for extension, whether by action or inaction, the extended term of the lease is part of the original lease and the maximum tax applies to the entire lease including any extension under the terms of the original lease.

(2) No Extension Provisions in Lease. -- If the original lease does not contain provisions for extension at the option of the lessee, whether by action or inaction, but a new lease agreement is subsequently entered into, the maximum tax applies separately to the second lease. Any sales tax payments made on the maximum tax for the first lease is not applied to the second lease.

History Note: Authority G.S. 105-164.4; 105-164.6; 105-262; 105-264;

Eff. February 1, 1976;

Readopted Eff. January 1, 2024.

17 NCAC 07B .4413 CONDITIONAL SALES CONTRACT

(a) A conditional sales contract is an agreement that requires the following:

(1) The transfer of title under a security agreement or deferred payment plan, upon completion of the required payments; or

(2) The transfer of title upon completion of required payments and payment of an option price that does not exceed the greater of one hundred dollars (\$100.00) or one percent of the total required payments.

(b) An agreement that meets the requirements of Paragraph (a) of this Rule does not constitute a lease or rental, as defined in G.S. 105-164.3, and is considered a conditional sales contract. Any applicable sales and use tax for a conditional sales contract is due upon delivery of the item, as the term item is defined in G.S. 105-164.3, to the purchaser.

History Note: Authority G.S. 105-164.3; 105-164.4; 105-164.6; 105-262; 105-264; Eff. February 1, 1976; Amended Eff. August 1, 2009; October 1, 1993; Readopted Eff. January 1, 2024.

TITLE 21 - OCCUPATIONAL LICENSING BOARDS AND COMMISSIONS

CHAPTER 12 – LICENSING BOARD FOR GENERAL CONTRACTORS

21 NCAC 12A .0202 CLASSIFICATION

(a) A general contractor shall be certified in one of the following five classifications:

- (1) Building Contractor. This classification covers all building construction and demolition activity including: commercial, industrial, institutional, and all residential building construction. It includes installation of solar panels; parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, and gutters; storm drainage, retaining or screen walls, and hardware and accessory structures; and indoor and outdoor recreational facilities including natural and artificial surface athletic fields, running tracks, bleachers, and seating. It also covers work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Marine and Freshwater Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), S(Swimming Pools), and S(Asbestos), and S(Wind Turbine).
- (2) Residential Contractor. This classification covers all construction and demolition activity pertaining to the construction of residential units that are required to conform to the Residential Building Code adopted by the Building Code Council pursuant to G.S. 143-138; all site work, driveways, sidewalks, and water and wastewater systems ancillary to the aforementioned structures and improvements; and the work done as part of such residential units under the specialty classifications of S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Swimming Pools), and S(Asbestos). This classification also covers the installation of solar panels on residential units that are required to conform to the residential building code.
- (3) Highway Contractor. This classification covers all highway construction activity including: demolition, grading, paving of all types, installation of exterior artificial athletic surfaces, relocation of public and private

utility lines ancillary to a principal project, bridge construction and repair, culvert construction and repair, parking decks, sidewalks, curbs, gutters and storm drainage. It also includes installation and erection of guard rails, fencing, signage, and ancillary highway hardware; covers paving and grading of airport and airfield runways, taxiways, and aprons, including the installation of fencing, signage, runway lighting and marking; and work done under the specialty classifications of S(Boring and Tunneling), S(Concrete Construction), S(Marine and Freshwater Construction), S(Railroad Construction), and H(Grading and Excavating).

- (4) Public Utilities Contractor. This classification includes demolition and operations that are the performance of construction work on water and wastewater systems and on the subclassifications of facilities set forth in G.S. 87-10(b)(3). The Board shall issue a license to a public utilities contractor that is limited to any of the subclassifications set forth in G.S. 87-10(b)(3) for which the contractor qualifies. A public utilities contractor license covers work done under the specialty classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of Point of Delivery), PU(Water Lines and Sewer Lines), PU(Water Purification and Sewage Disposal), and S(Swimming Pools).

- (5) Specialty Contractor. This classification covers all construction operation and performance of contract work outlined as follows:

- (A) H(Grading and Excavating). This classification covers the digging, moving, and placing of materials forming the surface of the earth, excluding air and water, in such a manner that the cut, fill, excavation, grade, trench, backfill, or any similar operation may be executed with the use of hand and power tools and machines used for these types of digging, moving, and material placing. It covers work on earthen dams and the use of explosives used in connection with all or any part of the activities described in this Subparagraph. It also includes clearing and grubbing, and erosion control activities.
- (B) S(Boring and Tunneling). This classification covers the construction of underground or underwater passageways by digging or boring through and under the earth's surface,

- including the bracing and compacting of such passageways to make them safe for the purpose intended. It includes preparation of the ground surfaces at points of ingress and egress.
- (C) PU (Communications). This classification covers the demolition and installation of the following:
- (i) all types of pole lines, and aerial and underground distribution cable for telephone systems;
 - (ii) aerial and underground distribution cable for cable TV and master antenna TV systems capable of transmitting R.F. signals;
 - (iii) underground conduit and communication cable, including fiber optic cable; and
 - (iv) microwave systems and towers, including foundations and excavations where required, when the microwave systems are being used for the purpose of transmitting R.F. signals; and installation of PCS or cellular telephone towers and sites.
- (D) S(Concrete Construction). This classification covers the construction, demolition, and installation of foundations, pre-cast silos, and other concrete tanks or receptacles, prestressed components, and gunite applications, but excludes bridges, streets, sidewalks, curbs, gutters, driveways, parking lots, and highways.
- (E) PU(Electrical-Ahead of Point of Delivery). This classification covers the construction, installation, alteration, maintenance, or repair of an electrical wiring system, including sub-stations or components thereof, which is or is intended to be owned, operated, and maintained by an electric power supplier, such as a public or private utility, a utility cooperative, or any other properly franchised electric power supplier, for the purpose of furnishing electrical services to one or more customers. This classification includes the construction of solar arrays.
- (F) PU(Fuel Distribution). This classification covers the construction, installation, alteration, maintenance, or repair of systems for distribution of petroleum fuels, petroleum distillates, natural gas, chemicals, and slurries through pipeline from one station to another. It includes all excavating, trenching, and backfilling in connection therewith. It covers the installation, replacement, and removal of above ground and below ground fuel storage tanks.
- (G) PU(Water Lines and Sewer Lines). This classification covers demolition and construction work on water and sewer mains, water service lines, and house and building sewer lines, as defined in the North Carolina State Building Code, and covers water storage tanks, lift stations, pumping stations, and appurtenances to water storage tanks, lift stations, and pumping stations. It includes pavement patching, backfill, and erosion control as part of construction.
- (H) PU(Water Purification and Sewage Disposal). This classification covers the demolition and performance of construction work on water and wastewater systems; water and wastewater treatment facilities; and all site work, grading, and paving of parking lots, driveways, sidewalks, curbs, and gutters that are ancillary to such construction of water and wastewater treatment facilities. It covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of the work on water and wastewater treatment facilities.
- (I) S(Insulation). This classification covers the installation, alteration, or repair of materials classified as insulating media used for the non-mechanical control of temperatures in the construction of residential and commercial buildings. It does not include the insulation of mechanical equipment, and lines and piping that are ancillary to the building.
- (J) S(Interior Construction). This classification covers the installation

- and demolition of acoustical ceiling systems and panels, load bearing and non-load bearing partitions, lathing and plastering, flooring and finishing, interior recreational surfaces, window and door installation, and installation of fixtures, cabinets, and millwork. It includes the removal of asbestos and replacement with non-toxic substances.
- (K) S(Marine and Freshwater Construction). This classification covers all marine and freshwater demolition and construction and repair activities and all types of marine and freshwater construction and demolition in deep-water installations and in harbors, inlets, sounds, bays, channels, canals, rivers, lakes, ponds, or any navigable waterway; it covers dredging, construction, and installation of pilings, piers, decks, slips, docks, and bulkheads. It does not include other structures that may be constructed on docks, slips, and piers.
- (L) S(Masonry Construction). This classification covers the demolition and installation, with or without the use of mortar or adhesives, of the following:
- (i) brick, concrete block, gypsum partition tile, pumice block, or other lightweight and facsimile units and products common to the masonry industry;
 - (ii) installation of fire clay products and refractory construction; and
 - (iii) installation of rough cut and dressed stone, marble panels and slate units, and installation of structural glazed tile or block, glass brick or block, and solar screen tile or block.
- (M) S(Railroad Construction). This classification covers the demolition, building, construction, and repair of railroad lines including:
- (i) the clearing and filling of rights-of-way;
 - (ii) shaping, compacting, setting, and stabilizing of road beds;
 - (iii) setting ties, tie plates, rails, rail connectors, frogs, switch plates, switches, signal markers, retaining walls, dikes, fences, and gates; and
- (iv) construction and repair of tool sheds and platforms.
- (N) S(Roofing). This classification covers the installation, demolition, and repair of roofs and decks on residential, commercial, industrial, and institutional structures requiring materials that form a water-tight and weather-resistant surface. The term "materials" for purposes of this Subparagraph includes cedar, cement, asbestos, clay tile and composition shingles, all types of metal coverings, wood shakes, single ply and built-up roofing, protective and reflective roof and deck coatings, sheet metal valleys, flashings, gravel stops, gutters and downspouts, and bituminous waterproofing including torch down roof systems. Any insulation material installed as a component of a torch down roofing system shall be included as work covered under this classification.
- (O) S(Metal Erection). This classification covers:
- (i) the field fabrication, demolition, erection, repair, and alteration of architectural and structural shapes, plates, tubing, pipe and bars, not limited to steel or aluminum, that are or may be used as structural members for buildings, equipment, and structure; and
 - (ii) the layout, assembly and erection by welding, bolting, riveting, or fastening in any manner metal products as curtain walls, tanks of all types, hoppers, structural members for buildings, towers, stairs, conveyor frames, cranes and crane runways, canopies, carports, guard rails, signs, steel scaffolding as a permanent structure, rigging, flagpoles, fences, steel and aluminum siding, bleachers, fire escapes, and seating for stadiums, arenas, and auditoriums.
- (P) S(Swimming Pools). This classification covers the construction,

demolition, service, and repair of all swimming pools. It includes:

- (i) excavation and grading;
- (ii) construction of concrete, gunite, fiberglass, metal-walled with liner, steel-walled with liner, and plastic-type pools, pool decks, and walkways, and tiling and coping; and
- (iii) installation of all equipment including pumps, filters, and chemical feeders. It does not include direct connections to a sanitary sewer system or to portable water lines, nor the grounding and bonding of any metal surfaces or the making of any electrical connections.

(Q) S(Asbestos). This classification covers renovation or demolition activities involving the repair, maintenance, removal, isolation, encapsulation, or enclosure of Regulated Asbestos Containing Materials (RACM) for any commercial, industrial, or institutional building, whether public or private. It also covers all types of residential building construction involving RACM during renovation or demolition activities. This specialty is required only when the cost of asbestos activities as described herein are equal to or exceed thirty thousand dollars (\$30,000).

(R) S(Wind Turbine). This classification covers the construction, demolition, installation, and repair of wind turbines, wind generators, and wind power units. It includes assembly of blades, generator, turbine structures, and towers. It also includes ancillary foundation work, field fabrication of metal equipment, and structural support components.

(b) An applicant may be licensed in more than one classification of general contracting provided the applicant meets the qualifications for the classifications, which includes passing the examinations for the classification requested by the applicant. The license granted to an applicant who meets the qualifications for all of the classifications set forth in the rules of this Section shall be designated "unclassified."

History Note: Authority G.S. 87-1; 87-4; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977;

Amended Eff. June 1, 1994; June 1, 1992; May 1, 1989; January 1, 1983; Temporary Amendment Eff. February 18, 1997; Amended Eff. April 1, 2014; June 1, 2011; September 1, 2009; April 1, 2004; April 1, 2003; August 1, 2002; April 1, 2001; August 1, 2000; August 1, 1998; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2019; April 1, 2018; Recodified from 21 NCAC 12 .0202 Eff. January 2, 2020; Amended Eff. December 1, 2023; January 1, 2023; January 1, 2022.

21 NCAC 12A .0308 CHARACTER REFERENCES

(a) Each applicant shall submit to the Board three written evaluations of the applicant as to the character reference's knowledge of and experience with the applicant. If the applicant is a legal entity, character references shall be submitted for all individuals who sign the application on behalf of the applicant including the qualifier. If the applicant is a sole proprietorship, character references shall be for the applicant itself.

(b) All character references shall include:

- (1) name of the person submitting the reference;
- (2) mailing address, phone number, and email address of the person submitting the reference;
- (3) date of the reference; and
- (4) information regarding the reference's knowledge of and experience with the applicant or person about whom the reference is being provided.

(c) Character references shall be completed and dated no more than 12 months prior to the date the reference is submitted to the Board.

History Note: Authority G.S. 87-1; 87-10; Eff. February 1, 1976; Readopted Eff. September 26, 1977; Amended Eff. May 1, 1989; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016; Amended Eff. September 1, 2019; Recodified from 21 NCAC 12 .0308 Eff. January 2, 2020; Amended Eff. December 1, 2023.

21 NCAC 12A .0828 WITNESSES

Any party may be a witness and may present witnesses on the party's behalf at the hearing. All oral testimony at the hearing shall be under oath or affirmation and shall be recorded. At the request of a party or upon the Board's own motion, the presiding officer may exclude witnesses from the hearing room to preserve the integrity of the testimony presented at the hearing. At the request of a party, witness, or the Board, a witness shall appear by videoconference, via live face-to-face video. Requests to appear by videoconference are to be directed to the Board or the Board's attorney not less than two business days prior to the date of the hearing.

History Note: Authority G.S. 87-11(b); 150B-38; 150B-40; Eff. September 1, 1988;

*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. July 23, 2016;
Recodified from 21 NCAC 12 .0828 Eff. January 2, 2020;
Amended Eff. December 1, 2023.*

CHAPTER 14 – BOARD OF COSMETIC ART EXAMINERS

21 NCAC 14T .0501 SUBMISSION OF RECORDS

All cosmetic art schools shall submit to the Board the completed, original Board form as defined in Rule .0502 of this Subchapter for each student including enrollment, transfer, withdrawal and graduation. Cosmetic art student forms shall be submitted to the Board within the required time frame established in the following table.

15 Days	30 Days
Esthetics, Manicuring, Natural Hair Care and Teacher trainee forms including: enrollments, and transfers	Cosmetology forms including: enrollments, withdrawals, transfers and graduations
	Esthetics, Manicuring, Natural Hair care and Teacher trainee, withdrawal and graduation forms

*History Note: Authority G.S. 88B-2; 88B-4; 88B-16;
Eff. January 1, 2012;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 13, 2015;
Amended Eff. December 1, 2023.*

CHAPTER 16 – BOARD OF DENTAL EXAMINERS

21 NCAC 16B .0101 EXAMINATION REQUIRED; EXEMPTIONS

(a) Persons seeking a license to practice dentistry in North Carolina shall pass Board approved written and clinical examinations, as set forth in Rule .0303 of this Subchapter, before receiving a license.

(b) The examination requirement in Paragraph (a) of this Rule shall not apply to persons who do not hold a North Carolina dental license and who are:

- (1) volunteers pursuant to G.S. 90-21.107;
- (2) persons holding an unexpired instructor's license issued by the Board and seeking a dental license pursuant to Rule .0502 of this Subchapter; or
- (3) persons seeking a dental license pursuant to a Board rule setting forth a different examination requirement, such as:

- (A) by military endorsement pursuant to Rules .1001 and .1002 of this Subchapter; or
- (B) by credentials pursuant to Rule .0501 of this Subchapter.

(c) All persons practicing dentistry in North Carolina shall maintain an unexpired CPR certification at all times.

History Note: Authority G.S. 90-21.107; 90-28; 90-30; 90-36; 90-48;

Eff. September 3, 1976;

Readopted Eff. September 26, 1977;

Amended Eff. September 1, 2014; September 1, 2013; March 1, 2006; May 1, 1991; May 1, 1989; January 1, 1983;

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Amended Eff. December 1, 2023; October 1, 2019.

21 NCAC 16B .0501 DENTAL LICENSURE BY CREDENTIALS

(a) Except for instructors applying under Rule .0502 of this Section, an applicant for a dental license by credentials shall submit to the Board:

- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes the information and materials required by Rule .0301(a) of this Subchapter;
- (2) the non-refundable licensure by credentials fee set forth in 21 NCAC 16M .0101;
- (3) an affidavit from the applicant stating for the five year period set out in G.S. 90-36(c)(1):
 - (A) the dates that and locations where the applicant has practiced dentistry;
 - (B) that the applicant has provided at least 5,000 hours of clinical care to patients, not including postgraduate training, residency programs, or an internship; and
 - (C) that the applicant has held an active, unrestricted dental license issued by another U.S. state or U.S. territory, without any period of interruption; and
- (4) a statement disclosing and explaining any investigations, malpractice claims, or state or federal agency complaints, judgments, or settlements that are related to licensure and are not disclosed elsewhere in the application.

(b) In addition to the requirements of Paragraph (a) of this Rule, an applicant for a dental license by credentials shall request the applicable entity to send the following required information or documents, in a sealed envelope or via secure electronic transmission, directly from the entity to the Board office:

- (1) the applicant's official transcripts from a dental school or college accredited by the Commission on Dental Accreditation of the American Dental Association ("CODA") showing the applicant graduated with a DDS or DMD degree;

- (2) a certificate of the applicant's licensure status from the dental regulatory authority or other occupational or professional regulatory authority and a disclosure of any disciplinary action taken or investigation pending, from all licensing jurisdictions where the applicant holds or has ever held a dental license or other occupational or professional license;
- (3) scores from:
 - (A) the National Board Dental Examination administered by the Joint Commission on National Dental Examinations; and
 - (B) a clinical examination accepted by the Board based on the criteria set out in Rule .0303(d) of this Subchapter;
- (4) a report of any pending or final malpractice actions against the applicant verified by any malpractice insurance carrier covering the applicant; and
- (5) a letter of coverage history from all current and all previous malpractice insurance carriers covering the applicant.

(c) An application shall be complete when the Board receives all information and documentation set forth in Paragraphs (a) and (b) of this Rule and the applicant's passing scores on all examinations required by this Rule. Partial applications that are not completed within one year of the date the first document is submitted to the Board shall be disregarded as expired without a refund of the application fee.

(d) An applicant for dental licensure by credentials shall pass the Board's written examinations in sterilization and jurisprudence as set out in Rule .0303(a) of this Subchapter. Individuals who do not pass either written examination after three attempts within one year in accordance with Rule .0317(b) of this Subchapter shall not be eligible for reexamination under Rule .0317(c) of this Subchapter and may not reapply for licensure by credentials.

(e) If an applicant graduated with a certificate or a degree from a CODA-accredited advanced dental education program, the applicant shall be subject to all the requirements of this Rule, except:

- (1) the applicant is not required to hold a dental license issued by any U.S. state or territory; and
- (2) the applicant shall satisfy the educational credentials requirement set out in Subparagraph (b)(1) of this Rule by requesting the applicable entity to send directly to the Board office, in a sealed envelope or via secure electronic transmission:
 - (A) official transcripts from any school or college showing the applicant graduated with a general dental degree; and
 - (B) official transcripts from a school or college showing the applicant graduated with a certificate or a degree from a CODA-accredited

advanced dental education program in the school.

(f) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(g) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-36; 90-41; Temporary Adoption Eff. January 1, 2003; Eff. January 1, 2004; Recodified from 21 NCAC 16B .0401 Eff. March 1, 2006; Amended Eff. September 1, 2014; February 1, 2010; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018; Amended Eff. December 1, 2023; March 1, 2020.

21 NCAC 16B .0502 DENTAL LICENSURE VIA INSTRUCTOR'S LICENSE

(a) An applicant for license by credentials who holds an unexpired instructor's license issued by the Board shall submit to the Board:

- (1) a notarized application form provided by the Board at www.ncdentalboard.org that includes information and materials required by Rule .0301(a) of this Subchapter;
- (2) a letter of recommendation from the applicant's employing dental school or academic medical center; and
- (3) the non-refundable licensure by credentials fee set forth in 21 NCAC 16M .0101.

(b) An application shall be complete when the Board receives all information and documentation required by this Rule. Partial applications that are not completed within one year of the date the first document is submitted to the Board shall be disregarded as expired without a refund of the application fee.

(c) Any applicant who changes his or her address shall notify the Board office in writing within 10 business days.

(d) Any license obtained through fraud or by any false representation shall be revoked.

History Note: Authority G.S. 90-28; 90-36; 90-41; Eff. December 1, 2023.

CHAPTER 36 – BOARD OF NURSING

21 NCAC 36 .0228 CLINICAL NURSE SPECIALIST PRACTICE

(a) Only a registered nurse who meets the qualifications outlined in Paragraph (b) of this Rule shall be approved by the Board as a clinical nurse specialist to perform activities listed in Paragraph (e) of this Rule.

(b) The Board shall approve an applicant who:

- (1) has an active, unencumbered license to practice as a registered nurse in North Carolina or a state that has adopted the Nurse Licensure Compact;

- (2) has an unrestricted approval, registration, or license as a clinical nurse specialist if previously approved, registered, or licensed as a clinical nurse specialist in another state, territory, or possession of the United States;
- (3) has successfully completed a master's or higher-level degree program that is accredited by a nursing accrediting body approved by the United States Secretary of Education or the Council for Higher Education Accreditation; and
- (4) has current certification as a clinical nurse specialist from a national credentialing body approved by the Board.

(c) An applicant certified as a clinical nurse specialist by a national credentialing body prior to January 1, 2007 who has maintained that certification, held an active approval, registration, or license as a clinical nurse specialist, and holds a master's or higher degree in nursing shall be approved by the Board as a clinical nurse specialist.

(d) An applicant seeking Board approval who has not held an active approval, registration or license as a clinical nurse specialist for two or more years shall complete a clinical nurse specialist refresher course approved by the Board in accordance with 21 NCAC 36 .0220(o) and (p), consisting of common conditions and their management related to the clinical nurse specialist's area of education and certification. A clinical nurse specialist refresher course participant shall be granted limited registration as a clinical nurse specialist for the purposes of completing the clinical activities in the refresher course.

(e) The scope of practice of a clinical nurse specialist shall incorporate the basic components of nursing practice as defined in Rule .0224 of this Section as well as the understanding and application of nursing principles at an advanced practice registered nurse level in the area of clinical nursing specialization in which the clinical nurse specialist is educationally prepared and within which competency is maintained, including:

- (1) assessing clients' health status, synthesizing and analyzing multiple sources of data, and identifying alternative possibilities as to the nature of a healthcare problem;
- (2) diagnosing and managing clients' acute and chronic health problems within the essential core competencies for professional nursing education;
- (3) assessing for and monitoring the usage and effect of pharmacologic agents within the essential core competencies for professional nursing education;
- (4) formulating strategies to promote wellness and prevent illness;
- (5) prescribing and implementing therapeutic and corrective non-pharmacologic nursing interventions;
- (6) planning for situations beyond the clinical nurse specialist's expertise and consulting with or referring clients to other health care providers as appropriate;

- (7) promoting and practicing in collegial and collaborative relationships with clients, families, other health care professionals, and individuals whose decisions influence the health of individual clients, families, and communities;
- (8) initiating, establishing, and using measures to evaluate health care outcomes and modify nursing practice decisions;
- (9) assuming leadership for the application of research findings for the improvement of health care outcomes; and
- (10) integrating education, consultation, management, leadership, and research into the clinical nurse specialist role.

(f) A registered nurse seeking registration by the Board as a clinical nurse specialist shall submit the following:

- (1) a completed application through the Board's website at www.ncbon.com that includes:
 - (A) the applicant's name, telephone number and email address;
 - (B) the applicant's primary address of residence;
 - (C) the educational degrees obtained by the applicant with the program name and completion date;
 - (D) the number and expiration date of the applicant's national certification from a national certifying body;
 - (E) other professional or occupational licenses with the license number and jurisdiction in which the license was issued, if applicable; and
 - (F) the registration number shall be provided on the application if the application is for the renewal or reinstatement of an existing North Carolina recognition as a certified nurse specialist.

- (2) official copy of the transcript from master's or higher-level degree program or a post-graduate certificate program; as set out in Subparagraph (b)(3) of this Rule; and
- (3) current certification in a clinical nursing specialty from a national credentialing body, set out in Subparagraph (b)(4) of this Rule.

(g) The clinical nurse specialist shall submit a renewal application every two years at the time of registered nurse renewal.

(h) An applicant recognized by the Board as a clinical nurse specialist without national certification prior to April 1, 2023 who seeks to maintain this recognition shall:

- (1) not allow the Board's recognition status to expire;
- (2) submit an application as set out in Subparagraph (f)(1) of this Rule; and
- (3) submit certificates of completion consistent with the following:

- (A) at least 75 contact hours of continuing education which includes 25 contact hours of pharmacotherapeutics as a portion of the mandatory 75 contact hours for the previous five years and attest to 1,000 hours of practice; or
- (B) at least 150 hours of continuing education which includes 50 contact hours of pharmacotherapeutics as a portion of the 150 contact hours for the previous five years.

five years which shall be made available upon request of the Board.

History Note: Authority G.S. 90-171.20(4); 90-171.20(7); 90-171.21(d)(4); 90-171.23(b); 90-171.42(b); Eff. April 1, 1996;

Amended Eff. January 1, 2015; April 1, 2008; January 1, 2007; November 1, 2005; August 1, 2005; April 1, 2003;

Readopted Eff. January 1, 2019;

Amended Eff. December 1, 2023; April 1, 2023; November 1, 2020.

- (i) All clinical nurse specialists shall maintain documentation of clinical practice hours and continuing education for the previous

RULES REVIEW COMMISSION

This Section contains information for the meeting of the Rules Review Commission January 31, 2024 at 1711 New Hope Church Road, RRC Commission Room, Raleigh, NC. Anyone wishing to submit written comment on any rule before the Commission should submit those comments to the RRC staff, the agency, and the individual Commissioners. Specific instructions and addresses may be obtained from the Rules Review Commission at 984-236-1850. Anyone wishing to address the Commission should notify the RRC staff and the agency no later than 5:00 p.m. of the 2nd business day before the meeting. Please refer to RRC rules codified in 26 NCAC 05.

RULES REVIEW COMMISSION MEMBERS

Appointed by Senate

Jeanette Doran (Chair)
Jay R. Hemphill
Jeff Hyde
Brandon Leebrick
Bill Nelson

Appointed by House

Barbara A. Jackson (1st Vice-Chair)
Randy Overton (2nd Vice-Chair)
Wayne R. Boyles, III
Jake Parker
Paul Powell

COMMISSION COUNSEL

Brian Liebman	984-236-1948
William W. Peaslee	984-236-1939
Seth M. Ascher	984-236-1934

RULES REVIEW COMMISSION MEETING DATES

January 31, 2024	March 27, 2024
February 28, 2024	April 30, 2024

AGENDA

RULES REVIEW COMMISSION

Wednesday, January 31, 2024, 10:00 A.M.
1711 New Hope Church Rd., Raleigh, NC 27609

- I. Ethics reminder by the chair as set out in G.S. 138A-15(e)
Approval of the minutes from the last meeting
- II. Follow-up matters
 - A. Department of Administration – 01 NCAC 06B .0307 (Peaslee)
 - B. Medical Care Commission - 10A NCAC 13F .0703, .0704, .1103, .1104, .1106; 13G .0702, .0703, .0704, .1102, .1103, .1106 (Peaslee)
 - C. Criminal Justice Education and Training Standards Commission - 12 NCAC 09A .0205, .0206; 09B .0103, .0235, .0236, .0301; 09C .0306; 09E .0103; 09F .0103, .0104, .0105; 09G .0307 (Peaslee)
 - D. Department of Public Safety - 14B NCAC 03 .0501, .0502, .0503, .0504, .0505, .0506, .0507, .0508, .0509 (Peaslee)
 - E. Department of Revenue - 17 NCAC 07B .1601, .1605, .2204, .3101 (Ascher)
 - F. Department of Revenue - 17 NCAC 07B .4203, .4210, .4404, .4415, .4503, .4609, .4614, .4701, .4707, .5002 (Peaslee)
 - G. Department of the Secretary of State - 18 NCAC 07B .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0401, .0402, .0403, .0404, .0405, .0406 (Liebman)
 - H. Department of the Secretary of State – 18 NCAC 07F .0101, .0102, .0103, .0201, .0301, .0302, .0303, .0304, .0305, .0401, .0402, .0403, .0404, .0503, .0505, .0506, .0507, .0508, .0509, .0512, .0513, .0601, .0602, .0701, .0702, .0703, .0704, .0705, .0706, .0707, .0708, .0709, .0801, .0802, .0803, .0804, .0805, .0806, .0807, .0808, .0809, .0810, .0811, .0812, .0813, .0814, .0901, .0902, .0903, .0904, .0905, .0906, .1001, .1002, .1003, .1004, .1101, .1102, .1103, .1104, .1105, .1106, .1107, .1108, .1109, .1110, .1111 (Ascher)
 - I. Department of the Secretary of State - 18 NCAC 07I .0101, .0102, .0103, .0104, .0105, .0106, .0107, .0201, .0202, .0203, .0204, .0205, .0206, .0207, .0208, .0209, .0210, .0211, .0212, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0401, .0402, .0403, .0404, .0405, .0406, .0407 (Liebman)

- J. Board of Nursing - 21 NCAC 36 .0120, .0220, .0233, .0302, .0303, .0309, .0317, .0318, .0320, .0321, .0322, .0323 (Peaslee)
- K. Board of Examiners in Optometry - 21 NCAC 42D .0102 (Peaslee)
- L. Building Code Council - 2024 North Carolina Existing Building Code, Section 101.2 of the 2024 North Carolina Building Code, Section 101.2 of the 2024 North Carolina Existing Building Code, Section 803.2.1.2 of the 2024 North Carolina Existing Building Code, Section 102.13 of the 2024 North Carolina Fire Code, and Section 5706.5.4.5 of the 2024 North Carolina Fire Code (Liebman)
- M. Building Code Council - 2024 NC Administrative Code and Policies 221213 Item B-1, 2024 NC Administrative Code and Policies Appendix B, 230314 Item B-13, 2024 NC Plumbing Code, 230314 Item B-1, 2024 NC Residential Code, Chapters 1-10, 25-33, 45, 46, and Appendices (Liebman)
- III. Review of Filings (Permanent Rules) for rules filed between November 21, 2023 through December 20, 2023
 - State Board of Elections (Peaslee)
 - Social Services Commission (Liebman)
 - Sheriffs' Education and Training Standards Commission (Peaslee)
 - Alarm Systems Licensing Board (Peaslee)
 - Wildlife Resources Commission (Liebman)
 - Marine Fisheries Commission (Ascher)
 - Building Code Council (Liebman)
- IV. Review of Log of Filings (Temporary Rules) for any rule filed within 15 business days prior to the RRC Meeting
- V. Existing Rules Review
 - Request for Extension of Readoption Date
 - 1. 15A NCAC 10G .0400 - Wildlife Resources Commission
- VI. Review of the 2024 State Medical Facilities Plan
- VII. Commission Business
 - Next meeting: February 28, 2024

Commission Review
Log of Permanent Rule Filings
November 21, 2023 through December 20, 2023

STATE BOARD OF ELECTIONS

The rules in Chapter 4 concern voting equipment including use of mechanical voting machines (.0100); use of punch-card voting equipment (.0200); and approval and operation of voting systems (.0300).

Authorized Access to Voting System Information in Escrow
Adopt*

08 NCAC 04 .0308

SOCIAL SERVICES COMMISSION

The rules in Chapter 6 are from the Social Services Commission and concern Operations for Aging Programs. The rules in Subchapter 6T are state adult day care fund rules.

Nature and Purpose of State Adult Day Care Fund
Amend*

10A NCAC 06T .0201

SHERIFFS' EDUCATION AND TRAINING STANDARDS COMMISSION

The rules in Subchapter 10B govern the commission organization and procedure (.0100); enforcement rules (.0200); minimum standards for employment as a justice officer (deputy or jailer) (.0300); certification of justice officers (.0400); standards and accreditation for justice officers schools, training programs, and the instructors (.0500-.0900); certificate and awards programs for sheriffs, deputies, justice officers, jailers, reserve officers, and telecommunicators (.1000-.1700); in-service training (.2000); firearms in-service training and re-qualification (.2100); and forms (.2200).

Fingerprint Criminal History Records Check

12 NCAC 10B .0303

Amend*

Verification of Records to the Division

12 NCAC 10B .0408

Amend*

ALARM SYSTEMS LICENSING BOARD

The rules in Chapter 17 are from the N.C. Alarm Systems Licensing Board and cover the organization and general provisions (.0100); provisions for licensees (.0200); provisions for registrants (.0300); the recovery fund (.0400); and continuing education for licensees (.0500).

Experience Requirements for License

14B NCAC 17 .0202

Amend*

Training Requirements for Alarm Licensees

14B NCAC 17 .0208

Repeal*

Required Continuing Education Hours

14B NCAC 17 .0502

Amend*

WILDLIFE RESOURCES COMMISSION

The rules in Subchapter 10F cover motorboats and water safety including boat registration (.0100); safety equipment and accident reports (.0200); and local water safety regulations covering speed limits, no-wake restrictions, restrictions on swimming and other activities, and placement of markers for designated counties or municipalities (.0300).

Brunswick County

15A NCAC 10F .0305

Amend*

Forsyth: Rockingham And Stokes Counties

15A NCAC 10F .0316

Amend*

Caldwell County

15A NCAC 10F .0338

Amend*

Town of Rhodiss

15A NCAC 10F .0380

Adopt*

The rules in Subchapter K concern the hunter education course.

Course Requirements

15A NCAC 10K .0101

Readopt with Changes*

Issuance of Certificate of Competency

15A NCAC 10K .0102

Readopt with Changes*

Instructor Certification

15A NCAC 10K .0103

Readopt with Changes*

MARINE FISHERIES COMMISSION

The rules in Chapter 18 cover environmental aspects of health such as sanitation (18A), mosquito control (18B), water supplies (18C), and water treatment facility operators (18D). The rules in Subchapter 18A concern sanitation and include handling, packing and shipping of crustacean meat (.0100) and shellfish (.0300 and .0400); operation of shellstock plants and reshippers (.0500); shucking and packing plants (.0600); depuration mechanical purification facilities (.0700); wet storage of shellstock (.0800); shellfish growing waters (.0900); summer camps (.1000); grade A milk (.1200); hospitals, nursing homes, rest homes, etc. (.1300); mass gatherings (.1400); local confinement facilities (.1500); residential care facilities (.1600); protection of water supplies (.1700); lodging places (.1800); sewage treatment and disposal systems (.1900); migrant housing (.2100); bed and breakfast homes (.2200); delegation of authority to enforce rules (.2300); public, private and religious schools (.2400); public swimming pools (.2500); restaurants, meat markets, and other food handling establishments (.2600); child day care facilities (.2800); restaurant and lodging fee collection program (.2900); bed and breakfast inns (.3000); lead poisoning prevention (.3100); tattooing (.3200); adult day service facilities (.3300); primitive camps (.3500); rules governing the sanitation of resident camps

(.3600); and private drinking water well sampling (.3800).

<u>Definitions</u>	15A NCAC 18A .0301
Readopt with Changes*	
<u>Appeals Procedure</u>	15A NCAC 18A .0305
Readopt/Repeal*	
<u>Applicability of Rules</u>	15A NCAC 18A .0401
Readopt with Changes*	
<u>General Requirements for Operation</u>	15A NCAC 18A .0402
Readopt with Changes*	
<u>Supervision and Training</u>	15A NCAC 18A .0403
Readopt with Changes*	
<u>Construction</u>	15A NCAC 18A .0404
Readopt with Changes*	
<u>Facility Flooding</u>	15A NCAC 18A .0405
Readopt with Changes*	
<u>Floors</u>	15A NCAC 18A .0406
Readopt with Changes*	
<u>Walls and Ceilings</u>	15A NCAC 18A .0407
Readopt with Changes*	
<u>Lighting</u>	15A NCAC 18A .0408
Readopt with Changes*	
<u>Ventilation</u>	15A NCAC 18A .0409
Readopt with Changes*	
<u>Pest Control</u>	15A NCAC 18A .0410
Readopt with Changes*	
<u>Rodent and Animal Control</u>	15A NCAC 18A .0411
Readopt/Repeal*	
<u>Plumbing and Hand Washing Facilities</u>	15A NCAC 18A .0412
Readopt with Changes*	
<u>Water Supply</u>	15A NCAC 18A .0413
Readopt with Changes*	
<u>Toilet Facilities</u>	15A NCAC 18A .0414
Readopt with Changes*	
<u>Premises</u>	15A NCAC 18A .0415
Readopt with Changes*	
<u>Personal Hygiene</u>	15A NCAC 18A .0416
Readopt with Changes*	
<u>Employees' Personal Articles</u>	15A NCAC 18A .0417
Readopt with Changes*	
<u>Supply Storage</u>	15A NCAC 18A .0418
Readopt with Changes*	
<u>Harvest Vessels and Vehicles</u>	15A NCAC 18A .0419
Readopt with Changes*	
<u>Transporting Shellfish</u>	15A NCAC 18A .0420
Readopt with Changes*	
<u>Records</u>	15A NCAC 18A .0421
Readopt with Changes*	
<u>Shellstock Cleaning</u>	15A NCAC 18A .0422
Readopt with Changes*	
<u>Sale of Live Shellstock</u>	15A NCAC 18A .0423
Readopt without Changes*	

<u>Shellfish Receiving</u>	15A NCAC 18A .0424
Readopt with Changes*	
<u>Bulk Shipments between Shellfish Dealers</u>	15A NCAC 18A .0426
Readopt with Changes*	
<u>Shellfish Storage</u>	15A NCAC 18A .0427
Readopt with Changes*	
<u>Sampling and Testing</u>	15A NCAC 18A .0428
Readopt with Changes*	
<u>Embargo or Disposal of Shellfish</u>	15A NCAC 18A .0429
Readopt with Changes*	
<u>Bacteriological and Contamination Stands</u>	15A NCAC 18A .0430
Readopt with Changes*	
<u>Public Display of Consumer Advisory</u>	15A NCAC 18A .0432
Readopt with Changes*	
<u>Hazard Analysis</u>	15A NCAC 18A .0433
Readopt with Changes*	
<u>HACCP Plan</u>	15A NCAC 18A .0434
Readopt with Changes*	
<u>Sanitation Monitoring Requirements</u>	15A NCAC 18A .0435
Readopt with Changes*	
<u>Monitoring Records</u>	15A NCAC 18A .0436
Readopt/Repeal*	
<u>In-Shell Product</u>	15A NCAC 18A .0437
Adopt*	
<u>Inspections and Compliance Schedule</u>	15A NCAC 18A .0438
Adopt*	
<u>Recall Procedure</u>	15A NCAC 18A .0439
Adopt*	
<u>Requirements for Shellstock Plants and Reshippers</u>	15A NCAC 18A .0501
Readopt with Changes*	
<u>Grading Shellstock and Commingling</u>	15A NCAC 18A .0502
Readopt with Changes*	
<u>Grader</u>	15A NCAC 18A .0503
Readopt/Repeal*	
<u>Reshippers</u>	15A NCAC 18A .0504
Readopt with Changes*	
<u>Requirements for Shucking and Packing Plants and Repackin...</u>	15A NCAC 18A .0601
Readopt with Changes*	
<u>Separation of Operations</u>	15A NCAC 18A .0602
Readopt with Changes*	
<u>Hot Water System</u>	15A NCAC 18A .0603
Readopt with Changes*	
<u>Handwashing Facilities</u>	15A NCAC 18A .0604
Readopt/Repeal*	
<u>Delivery Window or Shelf</u>	15A NCAC 18A .0605
Readopt with Changes*	
<u>Non-Food Contact Surfaces</u>	15A NCAC 18A .0606
Readopt with Changes*	
<u>Shucking Benches</u>	15A NCAC 18A .0607
Readopt with Changes*	
<u>Equipment Construction</u>	15A NCAC 18A .0608
Readopt with Changes*	

<u>Sanitizing Equipment</u>	15A NCAC 18A .0609
Readopt with Changes*	
<u>Equipment Sanitation</u>	15A NCAC 18A .0610
Readopt with Changes*	
<u>Equipment Storage</u>	15A NCAC 18A .0611
Readopt with Changes*	
<u>Ice</u>	15A NCAC 18A .0612
Readopt with Changes*	
<u>Shellfish Shucking</u>	15A NCAC 18A .0613
Readopt with Changes*	
<u>Containers</u>	15A NCAC 18A .0614
Readopt with Changes*	
<u>Shellfish Cooling</u>	15A NCAC 18A .0615
Readopt with Changes*	
<u>Shellfish Freezing</u>	15A NCAC 18A .0616
Readopt with Changes*	
<u>Shipping</u>	15A NCAC 18A .0617
Readopt/Repeal*	
<u>Heat Shock Method of Preparation of Shellfish</u>	15A NCAC 18A .0618
Readopt with Changes*	
<u>Repacking of Shellfish</u>	15A NCAC 18A .0619
Readopt with Changes*	
<u>Shellfish Thawing and Repacking</u>	15A NCAC 18A .0620
Readopt with Changes*	
<u>Recall Procedure</u>	15A NCAC 18A .0621
Readopt/Repeal*	
<u>Requirements for Depuration</u>	15A NCAC 18A .0701
Readopt with Changes*	
<u>Facility Supervision</u>	15A NCAC 18A .0702
Readopt/Repeal*	
<u>Facility Design and Sanitation</u>	15A NCAC 18A .0703
Readopt/Repeal*	
<u>Laboratory Procedures</u>	15A NCAC 18A .0704
Repeal*	
<u>Facility Operations</u>	15A NCAC 18A .0705
Readopt/Repeal*	
<u>Shellfish Sampling Procedures</u>	15A NCAC 18A .0706
Readopt/Repeal*	
<u>Depuration Process Water Control - Sampling Procedures</u>	15A NCAC 18A .0707
Readopt/Repeal*	
<u>Requirements for Wet Storage of Shellstock</u>	15A NCAC 18A .0708
Readopt/Repeal*	
<u>Depuration - Shellfish Meat Standards</u>	15A NCAC 18A .0709
Readopt/Repeal*	
<u>Ultraviolet Unit</u>	15A NCAC 18A .0710
Readopt/Repeal*	
<u>Shellstock Storage</u>	15A NCAC 18A .0711
Readopt/Repeal*	
<u>Depuration - Tagging and Release of Shellfish</u>	15A NCAC 18A .0712
Readopt/Repeal*	
<u>Depuration Records</u>	15A NCAC 18A .0713
Readopt/Repeal*	

<u>Requirements for Wet Storage of Shellstock</u> Readopt with Changes*	15A NCAC 18A .0801
<u>Plant Design: Sanitation: and Wet Storage</u> Readopt/Repeal*	15A NCAC 18A .0802
<u>Wet Storage Water</u> Readopt/Repeal*	15A NCAC 18A .0803
<u>Shellstock Cleaning</u> Readopt/Repeal*	15A NCAC 18A .0804
<u>Wet Storage Tanks</u> Readopt/Repeal*	15A NCAC 18A .0805
<u>Shellstock Containers</u> Readopt/Repeal*	15A NCAC 18A .0806

BUILDING CODE COUNCIL

<u>2023 NC Electrical Code</u> Adopt*	2023 Electrical Code
--	----------------------